

CRM-M-992-2024
Date of decision: 14.02.2024

BalwinderPetitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. D.S. Virk, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in case bearing FIR No.501 dated 16.12.2023 under Sections 15-B/61/85 of NDPS Act registered at Police Station Ellenabad, District Sirsa.

On 10.01.2024, the following order was passed:-

‘The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in FIR No. 501 dated 16.12.2023 registered under Sections 15B/61/85 of NDPS Act, 1985 at Police Station Ellenabad, District Sirsa.

Learned counsel for the petitioner inter alia contends that the petitioner is not named in the FIR and nothing has been recovered from his possession. Moreover, the alleged contraband which was recovered from the possession of the co-accused does not fall within the ambit of commercial quantity.

Notice of motion.

On the asking of the Court, Ms. Geeta Sharma, DAG Haryana, who is present in Court, accepts notice on behalf of the respondent-State.

*In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in **Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Mohd. Muslim alias Hussain Vs. State (NCT of Delhi) 2023 SCC OnLine SC 352**, at the first instance, the petitioner is directed to appear before the Investigating Officer on or before 23.01.2024 and on his doing so or in the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner shall cooperate with the Investigating Officer and abide by the conditions as provided under Section 438 (2) Cr.P.C.*

If the Investigating/Arresting Officer does not permit the petitioner to join the investigation, the petitioner would appear before the Illaqa Magistrate, who would then summon the Arresting Officer and direct him to join the investigation, in terms of the order of this Court.

Adjourned to 14.02.2024.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.'

Learned counsel for the petitioner submits that in compliance of the order dated 10.01.2024, the petitioner has joined the investigation. However, the learned State counsel disputes the same and submits that the petitioner has not joined the investigation.

In view of the above, the present petition is disposed of and the petitioner is directed to appear before the Illaqa Magistrate within a period of two weeks from today, who would then summon the Investigating/Arresting Officer and direct him to join the investigation, in terms of the order of this Court dated 10.01.2024 and the petitioner will continue to join the investigation as and when called upon to do so and he shall abide by the conditions as

envisaged under Section 438 (2) Cr.P.C.

In case, the petitioner does not appear before the concerned Illaqa Magistrate as directed by this Court, the interim order dated 10.01.2024, shall automatically stands vacated without any reference.

(HARPREET SINGH BRAR)
JUDGE

14.02.2024
Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No