

224 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1208-2024

Date of Decision:18.01.2024

Sandeep Singh

...Petitioner

VS.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Naveen Batra, Advocate
for the petitioner.

Mr.M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

1. An affidavit of Deputy Superintendent of Police, Sub-Division Garhshankar, District Hoshiarpur has been filed by learned State counsel in Court today and the same is taken on record.

2. The petitioner has filed the present petition under Section 438 Cr.P.C. with a prayer to grant anticipatory bail to him in case FIR No.175 dated 28.09.2023, registered under Sections 22, 29, 61, 85 of NDPS Act, 1985, at Police Station Garhshankar, District Hoshiarpur.

3. As per the prosecution story, on 28.09.2023, ASI Kulwinder Singh along with other police officials was on patrolling duty and when the police party reached of village Nainwan, it saw one person coming on foot. On seeing the police party, he tried to turn back. He was apprehended by the police party and on enquiry, he disclosed his name as Jobanjit Singh. During search of the accused, 260 grams of intoxicant powder was found in conscious possession

from the accused. During investigation, he disclosed that he has brought the said intoxicant substance of Sandeep Singh, present petitioner.

4. Learned counsel for the petitioner submits that the petitioner has been falsely involved in the present case. It has been further alleged that the recovery had already been effected from the Jobanjit Singh, at the time of his arrest. He further submits that the petitioner is not named in the FIR nor any recovery has been effected from him.

5. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner. He submits that the petitioner is a habitual offender and the following cases have been registered against him:-

“(i) FIR No.205, dated 07.12.2016, U/s 147, 148, 149, 323 IPC was registered at P.S. Haroli, District Una against the petitioner and the challan of this case has been presented on 06.01.2017 in the court of Ld. CJM, Una, and the same is pending in the Ld. Trial Court at Una for 29.02.2024.

(ii) FIR No.68, dated 07.07.2012, U/s 323, 324, 326, 34 IPC was registered at P.S. Garhshankar, District Hoshiarpur against the petitioner and the petitioner was convicted and sentenced to undergo RI for a period of six month alongwith fine of Rs.500/- U/s 323 IPC, and to undergo RI for a period of one year alongwith fine of Rs.500/- U/s 324 IPC and to undergo RI for 3 years alongwith fine of Rs.500/- U/s 326 IPC.

(iii) FIR No.52, dated 21.05.2014, U/s 21/61/85 of NDPS Act was registered at P.S. Noorpur Bedi, District Roopnagar against the petitioner and the petitioner was convicted and sentenced to undergo SI for a period of 20 days alongwith fine of Rs.500/- by the court of Sh. Rajesh Gupta Ld. ASJ, Ropar.

(iv) Cross case under Sections 323, 324, 148, 149 IPC was registered at Police Station Garhshankar vide DDR No.25, dated

04.03.2015 in FIR no.37, dated 03.03.2015 was registered against the petitioner and the same has been quashed by this Hon'ble High Court on 18.08.2018.”

6. Learned State counsel submits that since the petitioner is a habitual offender, he is not entitled to concession of anticipatory bail by this Court. Learned State counsel has also relied upon the law laid down by the Hon'ble Supreme Court in the matter of **“State of Haryana Vs. Samarth Kumar”, 2022 LiveLaw (SC) 622**, wherein the Hon'ble Supreme Court has held as under:-

“4. The High Court decided to grant pre-arrest bail to the respondents on the only ground that no recovery was effected from the respondents and that they had been implicated only on the basis of the disclosure statement of the main accused Dinesh Kumar. Therefore, reliance was placed by the High Court in the majority judgment of this Court in **Tofan Singh v. State of Tamil Nadu** reported in **(2021) 4 SCC 1**.

5. But, it is contended by the learned Additional Advocate General appearing on behalf of the State of Haryana that on the basis of the anticipatory bail granted to the respondents, the Special Court was constrained to grant regular bail even to the main accused-Dinesh Kumar and he jumped bail. Fortunately, the main accused-Dinesh Kumar has again been apprehended. According to the learned Additional Advocate General, the respondent in the second of these appeals is also a habitual offender.

6. Learned counsel appearing on behalf of the respondent in the first of these Appeals contends that the State is guilty of suppression of the vital fact that the respondent was granted regular bail after the

charge-sheet was filed and that therefore, nothing survives in the appeal. But, we do not agree.

- 7. The order of the Special Court granting regular bail to the respondents shows that the said order was passed in pursuance of the anticipatory bail granted by the High Court. Therefore, the same cannot be a ground to hold that the present appeals have become infructuous.
- 8. In cases of this nature, the respondents may be able to take advantage of the decision in **Tofan Singh v. State of Tamil Nadu (supra)**, perhaps at the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial.”

- 4. I have heard learned counsel for the parties and perused the record.
- 5. Keeping in view the gravity of the matter and also the law laid down by the Hon'ble Supreme Court in the matter of **“State of Haryana Vs. Samarth Kumar”, 2022 LiveLaw (SC) 622**, I find no merits in the present petition, the same is ordered to be dismissed.

18.01.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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