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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-2789-2024

Date of decision: 20.02.2024

Ishwar

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. K.L. Saini, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in case bearing FIR No.54 dated 21.02.2023 under Section 21-B of NDPS Act registered at Police Station Sadar Jind, District Jind, Haryana and Section 27-A of the NDPS Act added later on.

On 19.01.2024, 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.54 dated 21.02.2023 registered under Section 21-B of NDPS Act, 1985 (Section 27-A of NDPS Act added later on) at Police Station Jind, District Jind (Haryana).

Learned counsel for the petitioner inter alia contends that the petitioner is not named in the present FIR. The alleged contraband was recovered from the possession of co-accused Mukesh. The petitioner has been involved only on the basis of disclosure statement suffered by the co-accused in the eye of law, while in police custody,

which has no evidentiary value in the eyes of law. Moreover, 6.02 grams Heroin recovered from the co-accused falls within the ambit of non-commercial quantity. The petitioner is not involved in any other case.

Notice of motion.

On 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 30.01.2024 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 20.02.2024.

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 State counsel on instructions from ASI Avtar Singh, at the very outset informs the Court that the petitioner has joined the investigation and his custodial interrogation is not required.

In view of the statement of learned State counsel, order dated 19.01.2024 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 438(2) Cr.P.C.

The petition stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

20.02.2024
Neha

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