

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM No.6954 of 2024 in/and
CRM-M No.3492 of 2024 (O&M)
Date of Decision: 14.02.2024

JAVEDPetitioner

Vs
STATE OF HARYANARespondent

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Ram Singh Chaudhary, Advocate
Mr. Altaf Hussain, Advocate and
Mr. Afzal Hussain, Advocate for the petitioner.

Mr. Rajiv Sidhu, D.A.G., Haryana.

HARKESH MANUJA, J. (Oral)

1. By way of present petition filed under Section 438 Cr.P.C., prayer has been made for grant of anticipatory bail to the petitioner in case bearing FIR No.04 dated 02.01.2024 registered under Section 20 of NDPS Act, 1985 at Police Station Camp, District Palwal, wherein 33 kgs and 33 grams of *Ganja* was recovered from the alleged tenanted premises which was owned by Ashok Kumar and maintained by his daughter Meenakshi Devi.
2. Learned counsel for the petitioner submits that the petitioner was never apprehended from the spot and he also points out that the alleged recovery was made from the house owned by Ashok Kumar and there was no document in writing which could relate its position with the petitioner as regards his tenancy over the same. Learned counsel also submits that the FIR in question is a counter-blast to the filing of CWP No.19766 of 2023 at the instance of petitioner and his brothers against the police officials wherein a prayer was made for issuance of directions to the respondents not to demolish their house.

2.2. Learned counsel further points out that implication of the petitioner is purely on account of vindication and even his brother was illegally detained by the police officials, who could only be got released in pursuance of filing of CRWP No.11430 of 2023 titled '*Sonu Kureshi vs. State of Haryana and others*' and, thus the entire case set up against the petitioner is based on *mala fide*.

2.3. Learned counsel also relies upon one hard disk/CD which has been appended along with the present petition and relates to conversation between some police official and the father of petitioner wherein the police official is admitting the factum of involvement of the petitioner in present FIR, at the instance of Addl. Superintendent of Police, Palwal, only because of filing of CWP No.19766 of 2023.

3. On the other hand, learned State counsel vehemently opposes the prayer made on behalf of the petitioner while submitting that the petitioner is involved in two more FIRs under the NDPS Act, besides it, he further submits that though there does not exist any written agreement between the owner of the house namely Ashok Kumar and the petitioner, however there have been regular transactions of Rs.5,000/- (Annexure R-1) deposited by the petitioner in the account of daughter of owner of the house in question. Learned State counsel also submits that possession of the house in question by the petitioner has also been supported from the statements of neighbour namely Kusum Lata as well as one of the property dealer of the area namely Vijay Kumar.

4. I have heard learned counsel for the parties and gone through the paper book. I am unable to find substance in the submissions made by learned counsel for the petitioner.

5. In the present case, the petitioner has been implicated against the recovery of 33 kgs and 33 grams of *Ganja* which falls within the commercial quantity. Moreover, as per reply the filed by respondent/State, petitioner has been implicated in FIR No.257 dated 17.06.2020 and FIR No.3 dated 02.01.2024 and both are relating to offences punishable under the NDPS Act, especially in the wake of Section 37 of NDPS Act.

6. As regards the plea raised on behalf of the petitioner i.e. in the absence of any rent agreement between the owner and the petitioner, he could not have been associated with the premises in question, thereby involving him in the case in hand, it can be pointed out here that respondent in their reply have submitted a detailed summary from the statement of account of daughter of the owner, reflecting repeated transactions of Rs.5,000/- from the account of the petitioner; for the past more than six months and that too on monthly basis, which clearly establishes some kind of connection of the petitioner with the premises in question.

7. Moreover, the plea raised on behalf of the petitioner that the FIR in question has been registered merely on account of vindictive attitude of the Investigating Agency as counter-blast to the filing of CWP No.19766 of 2023; it may be pointed out here that no such inference can be drawn at this stage as the same would always remain as the matter of evidence to be established during trial, there being no adjudication by this Court regarding the merits of averments made in the writ petition.

8. As regards the alleged illegal detention of brother of the petitioner, it may be pointed out here that from the order dated 23.01.2024 passed in CRWP No.11430 of 2023 titled '*Sonu Kureshi vs. State of Haryana and others*' it cannot

be made out that brother of the petitioner was illegally detained by the official respondents. Equally important, a copy of written statement filed in the said writ petition has been produced before this Court by learned counsel for the petitioner which shows that detention of brother of the petitioner was in pursuance to an order dated 30.10.2023 passed by the Addl. Chief Secretary to Government of Haryana, Home Department on account of its exercise of powers under Section 3 of the Prevention of Illicit Trafficking in NDPS Act. 1988 and, thus the same would not come to the rescue of petitioner.

9. Last but not the least, at this stage, in the humble opinion of this Court, the plea regarding involvement of petitioner in the FIR in question, at the instance of police authorities as allegedly recorded in the hard disk/CD which is appended along with the present petition. It may not be appropriate, without going into its authenticity as well as contents thereof; it would always be subject to scrutiny during trial.

10. In view of detailed discussion made hereinabove and considering the gravity of offence and its impact on the society, besides the involvement of petitioner in two more case under the NDPS Act, this Court does not find any reason to exercise its jurisdiction as regards grant of pre-arrest bail as the custodial interrogation of the petitioner would ensure free and fair investigation. Consequently, the present petition is dismissed.

11. Accordingly, CRM No.6954 of 2024 along with all other pending applications is disposed of.

February 14, 2024
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(HARKESH MANUJA)
JUDGE

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