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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-4017-2024**

Date of Decision:- 09.07.2024

Kamal Singh

....Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTIPresent:- Mr. D.S. Virk, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

AMARJOT BHATTI, J.

Petitioner Kamal Singh has filed anticipatory bail application under Section 438 Cr.P.C. in case FIR No. 241 dated 07.09.2023 under Sections 15(C) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station Sadar Narwana, District Jind.

2. Facts of the case are on 07.09.2023, SI Rajesh Kumar along with police party was on patrol duty and he received secret information while present at Bus Stand of Village Dumrakhan Khurd that Sandeep @ Koka s/o Prem has taken land on lease and he was sitting outside the tubewell room along with poppy husk and if raid was conducted he could be apprehended along with contraband. Since the information was from reliable source, notice under Section 42 of NDPS Act was sent to Police Station Sadar Narwana. Raid was conducted. One young person was

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apprehended with three plastic bags i.e. two bags of white colour and one bag of black colour. He disclosed his name as Sandeep @ Koka. Search was conducted as per the rules. Out of black coloured bag, 20 kg 300 gms of poppy husk was recovered and in two polythene bags of black colour, 16 kg 200 gms in each bag was recovered and in this way there was recovery of 52 kg 700 gms of poppy husk/Doda Post, which was taken into police possession. During investigation, disclosure statement of accused was recorded who named Kamal from whom he had purchased the contraband.

3. Learned counsel for the petitioner vehemently argued that present petitioner was not apprehended on the spot. No recovery was effected from his conscious possession. He is falsely implicated in this case on the basis of disclosure statement of co-accused. To support his argument, learned counsel for the petitioner has relied upon order dated 15.05.2024 in Special Leave to Appeal (Crl.) No. 6811/2024, titled "Sukhminder Singh @ Sukhvinder Singh Versus State of Haryana & Anr.". He has also relied upon various orders passed by the Coordinate Bench granting anticipatory bail where the accused was not apprehended on the spot and was named by co-accused in disclosure statement. Present petitioner is ready to join the investigation. It is further pointed out that quantity of contraband is allegedly 52 kg 700 gms which is marginally more than non-commercial quantity. It is submitted that petitioner will abide by the terms of bail order. Therefore, his anticipatory bail application may be allowed.

4. Bail application is opposed by learned counsel representing the State and detailed status report has been filed. It is pointed out that

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source of contraband is to be pin pointed. Present petitioner was in constant touch with the co-accused Sandeep @ Koka from whose possession commercial quantity of contraband was recovered. He is involved in other criminal cases also. Disclosure statement of Sandeep @ Koka is Annexure R-1/T and Annexure R-2/T. Present petitioner is specifically named. Considering the facts, his custodial interrogation is required.

5. I have considered the facts and arguments advanced before me. 52 kg 700 gms of poppy husk/Doda Post was recovered from the possession of Sandeep @ Koka which falls in commercial quantity. During investigation, his disclosure statement was recorded where he named the present petitioner Kamal Singh alleging that he had purchased the contraband from him. In the detailed status report filed by learned counsel representing the State, it is mentioned that present petitioner obtained mobile number 93027-75210 using fake Aadhaar Card in the name of Kailash Meghwal s/o Bapulal, Harijan Basti, Laturi Gahlot, Police Station Nalkhera, District Agar, Madhya Pradesh. In this connection, statement of Kailash Meghwal was recorded who denied to have purchased said sim number. It is pointed out that Sandeep @ Koka main accused contacted Kamal Singh present petitioner on the aforesaid mobile number via Whatsapp call from his mobile phone number 7206673254. Mobile phone of co-accused was examined in Cyber Forensic Lab, Panchkula for analysis and Whatsapp call record was allegedly established. It is further mentioned in the status report that Kamal Singh petitioner was lodged in Jind jail in FIR No. 1023 dated 27.12.2015 under Sections 223, 224 of IPC and Sections 7 and 8 of PC Act and he was undergoing imprisonment of 5

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years, whereas, co-accused Sandeep @ Koka was lodged in FIR No. 423 dated 07.12.2019 under Section 15-C of NDPS Act, Police Station Sadar Narwana, District Jind. As per jail record, co-accused was released on bail and then he met the present petitioner in Jind jail in the year 2019. As per status report, connection between the present petitioner and co-accused was established. In disclosure statement, detail was also mentioned by co-accused how he was receiving the contraband from the present petitioner. Considering the detailed status report, matter requires thorough investigation. Apart from the disclosure statement, the Investigating Officer has collected other record to establish the connection.

Therefore, considering the facts and circumstances of the present case, I do not find a fit case for grant of anticipatory bail to petitioner Kamal Singh and accordingly, his anticipatory bail petition is dismissed.

6. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

09.07.2024

*lalit***(AMARJOT BHATTI)****JUDGE**

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No