

CRM-M-4892-2024
Date of decision: 01.03.2024

...PETITIONER

V/S

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gagandeep Singh Gill, Advocate for
Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

Through instant petition, the petitioner is seeking anticipatory bail in case FIR No.151 dated 02.09.2023 registered under Sections 15 and 29 of NDPS Act at Police Station Bhawanigarh, District Sangrur.

2. On 31.01.2024, following order was passed:

“The present petition has been filed under Section 438 of the Code of Criminal Procedure (hereinafter referred to as Cr.P.C) for grant of anticipatory bail to the petitioner in FIR No.151 dated 02.09.2023 registered under Sections 15 and 29 of the NDPS Act at Police Station Bhawanigarh, District Sangrur.

*Learned counsel for the petitioner, inter alia, contends that the petitioner is not named in the FIR and nothing has been recovered from his conscious possession. He has been nominated as an accused only on the basis of disclosure statement suffered by the co-accused while in custody, which has no evidentiary value in the eyes of law. In support of his contentions, he relies upon the judgment passed by the Hon'ble Supreme Court in **Tofan Singh Vs. State of Tamil Nadu 2021 (4) SCC 1** and **Surinder Kumar Khanna Vs. Intelligence Officer Director of Revenue Intelligence 2018 (3) RCR (Cr.) 954.***

Notice of motion.

On the asking of the Court, Mr. Subhash Godara, Addl. A.G., Punjab, who is present in Court, accepts notice on behalf of the respondent-State and opposes the prayer for grant of anticipatory bail to the petitioner.

*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; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi 2020 (1) RCR (Criminal) 833**, at the first instance, the petitioner is directed to appear before the Investigating Officer on or before 08.02.2024 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 petitioner in investigation, in terms of the order of this Court.

Adjourned to 01.03.2024.

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."

3. Learned State counsel, on instructions from ASI Pardeep Kumar, submits that in compliance of order dated 31.01.2024, passed by this Court, the petitioner has joined the investigation and is not required for further custodial interrogation.

4. Keeping in view the statement made by learned State Counsel the order dated 31.01.2024, is made absolute. The petitioner shall abide by the terms and conditions enumerated in Section 438(2) Cr.P.C.

5. The petition is accordingly allowed.
6. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and trial Court shall proceed without being prejudiced by observations of this Court.

March 01, 2024
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(HARPREET SINGH BRAR)
JUDGE

- (i)

Whether speaking/reasoned

Yes/No
- (ii)

Whether reportable

Yes/No