

...PETITIONER

...RESPONDENT

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR J. (ORAL)

2. On 08.02.2024, following order was passed:

Learned counsel for the petitioner, inter alia, contends that nothing has been recovered from the petitioner, as alleged recovery of 9 kgs of poppy husk has been recovered from the co-accused and he has been nominated on the basis of disclosure statement made by the co-accused while in police custody, which has no evidentiary value in the eyes of law. The petitioner is not involved in any other case.

On the asking of the Court, Ms. Geeta Sharma, DAG, Haryana, 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 15.02.2024 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 05.03.2024.

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.”

4. Learned State counsel, on instructions from SI Satvir Singh, submits that in compliance of order dated 08.02.2024 passed by this Court, the petitioner has joined the investigation and is not required for further custodial interrogation.
5. Keeping in view the statement made by learned State Counsel the order dated 08.02.2024, is made absolute. The petitioner shall abide by the terms and conditions enumerated in Section 438(2) Cr.P.C.
6. The petition is accordingly allowed.
7. 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 05, 2024

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(i) Whether speaking/reasoned

(ii) Whether reportable

(HARPREET SINGH BRAR)

JUDGE

Yes/No

Yes/No