

CRM-M-6684-2024

2024:PHHC:029333

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101

CRM-M-6684-2024

Date of Decision : March 01, 2024

RAJ KUMAR ALIAS RAJA PAHARIA

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Fatehjeet Singh, Advocate
for the petitioner.

Mr. Digvijay Nagpal, AAG, Punjab.

KULDEEP TIWARI, J. (Oral)

1. The petitioner having apprehension to be arrested in case FIR No. 228 dated 9.10.2023, under Sections 18, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, **the NDPS Act**), (Section 25 of the Arms Act and under Sections 148 and 149 of IPC, added lateron), registered at Police Station Division No. 8, Commissionerate Jalandhar, Punjab, has filed the instant petition seeking grant of anticipatory bail.

SUBMISSIONS BY LEARNED COUNSEL FOR THE PETITIONER

2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the instant FIR, on the basis of disclosure statement suffered by the co-accused, and except the disclosure statement, there is nothing with the prosecution agency to connect the present petitioner with the alleged crime, therefore, he may be extended

the benefit of pre-arrest bail.

SUBMISSIONS BY LEARNED STATE COUNSEL

3. Per-contra, the learned State counsel opposed the asked for relief, on the ground that it is a huge racket involving inter-State transactions of narcotic and psychotropic substance and the petitioner is involved in one more case under the NDPS Act, and eight other cases under other criminal offences, therefore, the petitioner being a habitual offender, is not entitled to, asked for relief of pre-arrest bail. He further submits that the custodial interrogation of the petitioner is required to ascertain the further link in the chain of crime.

BRIEF FACTS OF THE CASE

4. On 9.10.2023, when police party headed by SI Mohan Lal was present at Focal Point Chownk, Jalandhar, in connection with checking of suspected persons, one car bearing registration no.PB-08-EY-3901 was seen coming from the side of Verka Milk Plant towards Service lane. On seeing the police party, driver of the car tried to turn it back, but said car was apprehended by the police. On asking, driver of the car disclosed his name as Ajay Masih. The person, who was sitting on the co-driver seat, disclosed his name as Vijay Masih and the person sitting on the rear seat of the car disclosed his name as Gagandeep Singh alias Baba. During search of car, 2 kg of Opium wrapped in black colour polythene envelope was recovered from underneath the seat of driver. Accused could not show any permit or license for possessing the same. Thereupon ruqa was sent to the Police Station and FIR in the present case was registered against said accused under Section 18/61/85 of NDPS Act.

During further investigation, Ajay Masih and Vijay Masih suffered disclosure statements that they had also kept concealed country made pistols and live cartridges in the boot of Acura bearing registration No.PB-08-EL-7360 and the said arms and ammunition were brought by them from one, namely, Gurpreet Singh alias Gopi, Akashdeep Singh alias Akash and Raja Bhaiya(applicant/accused). On the basis of said disclosure statements, accused Gurpreet Singh alias Gopi, Akashdeep Singh alias Akash and Raja Bhaiya (applicant/accused) were nominated in the instant FIR, and recovery of two country made pistols (Katta) and twenty live cartridges was effected from the present petitioner and offences under Sections 25/54/59 of the Arms Act and Sections 148/149 IPC were added vide DDR No. 33 dated 12.10.2023.

ANALYSIS

5. It has transpired from the investigation that one of the country made pistols recovered from the co-accused, was brought by them from the applicant-accused and as per the petitioner himself, he is involved in one more case under the NDPS Act, and eight other cases under other criminal offences. The contention of the learned counsel for the petitioner is that, the name of the present petitioner was cropped up in the disclosure statement of the co-accused which this Court cannot consider at this stage. For this view, this Court finds support from the judgment passed by the Hon'ble Supreme Court in "***The State of Haryana vs Samarth Kumar***," 2022 LiveLaw (SC) 622, wherein, the Hon'ble Supreme Court has observed as under:-

"7. The order of the Special Court granting regular bail to

the respondents shows that the said order was passed in pursuance of the anticipatory bail granted by the High Court. Therefore, the same cannot be a ground to hold that the present appeals have become infructuous.

8. In cases of this nature, the respondents may be able to take advantage of the decision in Tofan Singh vs. State of Tamil Nadu (supra), perhaps at the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial.

9. To grant anticipatory bail in a case of this nature is not really warranted. Therefore, we are of the view that the High Court fell into an error in granting anticipatory bail to the respondents.”

6. Further, this Court refrains to grant the asked for relief of pre-arrest bail, considering the antecedents of the present petitioner, who is involved in one more case under the NDPS Act, and eight other cases under other criminal offences. Considering the above mentioned facts, and the law laid down by the Hon'ble Supreme Court in the case of ***Samarth Kumar's*** case (supra), the present petition is, **dismissed**, being devoid of any merits.

March 01, 2024

ajay-1

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No