

2024:PHHC:049154

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

104

CRM-M-17759-2024

Date of Decision : April 10, 2024

SUKHPAL SINGH

-PETITIONER

V/S

STATE OF HARYANA

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Arshdeep Singh Sivia, Advocate
for the petitioner.

Mr. Bhupender Singh, D.A.G., Haryana.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, as instituted under Section 438 of the Cr.P.C., the petitioner seeks the concession of anticipatory bail, in FIR No.99 dated 14.03.2024, under Sections 21(b)/61/85 of the N.D.P.S. Act, registered at P.S. City Dabwali, District Sirsa.

2. The learned counsel for the petitioner submits that the petitioner has no concern whatsoever with the alleged recovery of 06 grams 80 milligrams of heroin, which indeed has been effected from co-accused Birchand @ Bholu. Moreover, when the allegedly recovered heroin falls in the category of “non-commercial quantity”, therefore, the statutory bar as engrafted in Section 37 of the N.D.P.S. Act, 1985, is not applicable in the present case. The name of the petitioner surfaced for the first time ever only in the disclosure statement, as suffered by the co-accused Birchand @ Bholu, during the course of investigation, whereupon, he has been arrayed as an accused in the instant FIR. He contests the evidentiary vigor of the said disclosure statement, on the ground that, the same was suffered by the co-accused (supra) while being in police custody.

3. The record reveals that, earlier also, the petitioner was involved in commission of an alike offence, whereupon, FIR No.307 dated 05.12.2022,

under Section 18(C) of the N.D.P.S. Act, 1985, was registered against him at P.S. Special Task Force Wing, S.A.S. Nagar. Although the petitioner was granted the concession of regular bail, in FIR (supra), by a Co-ordinate Bench of this Court, vide order dated 03.03.2023, drawn upon CRM-M-10377-2023, however, consequent upon his release, he again indulged in trade of narcotics, which constituted the bedrock for registration of the present FIR.

4. Though the alleged recovery of heroin, as effected from the co-accused (supra), undisputedly falls in the category of “non-commercial quantity”, however, the hereinabove extracted criminal antecedents of the petitioner impel this Court to draw an inference that the petitioner is a habitual offender, who indulges in trade of narcotics time and again. Now, insofar as evidentiary worth of the disclosure statement of co-accused (supra) is concerned, the same can only be considered and ascertained at the appropriate stage of trial.

5. Therefore, this Court does not deem it a fit case to grant the extraordinary relief of anticipatory bail to the petitioner. To reach at this conclusion, this Court also garners strength from the judgment rendered by the Hon’ble Supreme Court, in case titled as “*The State of Haryana Versus Samarth Kumar*”, 2022 (3) RCR (Criminal) 991. Consequently, the asked for relief of anticipatory bail is declined to the petitioner and the petition is accordingly **dismissed**.

6. However, anything observed hereinabove shall neither be construed to have any bearing on the outcome of the trial, nor the trial Court concerned shall be influenced by any of the observations recorded herein.

April 10, 2024
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No