2024:PHHC: 056450

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-18610 of 2024(O&M)
Date of Decision: 25.04.2024

Ishwer Singh

…**Petitioner**

Versus

State of Haryana

…**Respondent**

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. M.K. Dhot, Advocate
For the petitioner.

Mr. Neeraj Sheoran, DAG Haryana.

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KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case having FIR No. 0001 dated 01.01.2023, registered under Section 15(c) of the Narcotic Drugs and Psychotropic Substances Act (for brevity, NDPS Act), Police Station Sadar Tohana, District Fatehabad, to which Section 29 of the NDPS Act was added lateron.

2. The allegations in nutshell are that on 01.01.2023 the police officials saw that one TATA Ace No. HR62A-7904 was coming from the side of village Amani and on seeing the police vehicle, driver of the said vehicle got down and managed to escape by taking benefit of fog. The said TATA Ace was checked on which 08 quintals 14 kg of poppy husk stored in 40 bags was recovered. During investigation, co-accused Jagsir Singh @ Sira and Charanjeet @ Charno were arrested in this case. Thereafter,

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aforesaid Jagsir @ Sira suffered disclosure statement against the present petitioner with regard to his involvement in the present case

3. The counsel for the petitioner submits that the petitioner is falsely implicated in the present case on the basis of the alleged disclosure made by co-accused Jagsir @ Sira and the veracity of the said disclosure will be tested during the trial. The counsel for the petitioner further submits that the petitioner is ready to join the investigation with the police.

4. The present petition is contested by the State counsel who on instructions from SI Devi Lal submits that the present case is relating to recovery of commercial quantity of poppy husk and during investigation the petitioner was nominated as accused on the basis of disclosure statement made by co-accused Jagsir Singh @ Sira and that the petitioner is required by the police for proper investigation of the case. The State counsel further submits that the petitioner is also involved in another case under NDPS Act wherein he is already declared as proclaimed offender by the Court concerned. It is further submitted that the present case is relating to recovery of commercial quantity of contraband and thus is covered under Section 37 of the Act and further the petitioner is having criminal history and thus the petitioner is not entitled to get concession of anticipatory bail.

5. I have considered the submissions made by counsel for the parties.

6. In the instant case commercial quantity of contraband has been recovered and the petitioner has been nominated as accused on the basis of the disclosure statement made by said Jagsir @ Sira against him. In the light of the order passed by the Hon'ble Supreme Court dated 20.07.2022 in **State of Haryana Vs. Smarth Kumar,** Crl. Appeal No. 1005 of 2022, at this initial stage the petitioner cannot take advantage of the law laid down in

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Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1. Further, rigors of Section 37 of the Act are applicable to the present case and as has been apprised by the State counsel the petitioner is already involved in one another case under the Act wherein he is absconding.

7. In the light of the above, this Court is of the view that present petition deserves to be dismissed as the custodial interrogation of the petitioner is necessary for proper and effective investigation by the police. Consequently, the present petition is hereby dismissed. However, any observations made hereinabove are not to be considered as expression of opinion on the merits of the case.

(KARAMJIT SINGH)
JUDGE

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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