

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-21783 of 2024(O&M)
Date of Decision: 02.05.2024

Mahender Singh
Versus
State of Haryana

...Petitioner
...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Gurpal Singh Sandhu, Advocate
For the petitioner.

Mr.Neeraj Sheoran, DAG Haryana.

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. 370 dated 07.09.2021, registered under Section 15(c) of the Narcotic Drugs and Psychotropic Substances Act (for brevity, NDPS Act), Police Station Rania, District Sirsa.
2. The allegations in nutshell are that on 07.09.2021 the police apprehended Deepak @ Deepu and Santosh Singh while they were travelling in a Bolero No. HR61-3183 and on checking of the said vehicle, 180 kgs of poppy husk was recovered. During investigation, Deepak @ Deepu and Santosh Singh suffered disclosure statement against the present petitioner with regard to his involvement in drug trafficking.
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 Deepak @ Deepu and Santosh Singh and the veracity of the said disclosure will be tested during the trial. The counsel for the

petitioner further submits that the petitioner, who is having no criminal history, is ready to join the investigation with the police. In support of his contentions he has relied upon **Tofan Singh Vs. State of Tamil Nadu**, (2021) 4 SCC 1 and **Vijay Singh Vs. State of Haryana, Special Leave to Appeal (Crl.) 1266 of 2023**, decided on 17.05.2023.

4. The present petition is contested by the State counsel who 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 Deepak @ Deepu and Santosh Singh and that the petitioner is required by the police for proper investigation of the case. 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 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 was recovered and the petitioner has been nominated as accused on the basis of the disclosure statement made by Deepak @ Deepu and Santosh Singh against him. In the light of the decision of 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 **Tofan Singh(supra)**. Even the facts and circumstances of Vijay Singh's case (supra) are also distinguishable from that of the present case. Further, rigors of Section 37 of the Act are applicable to the present case.

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.

02.05.2024
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(KARAMJIT SINGH)
JUDGE

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