



CRM-M-22948-2024

1

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

102

CRM-M-22948-2024

Date of Decision : May 27, 2024

NITA SINGH

-PETITIONER

V/S

STATE OF HARYANA

-RESPONDENT**CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Aditya Sanghi, 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 case FIR No.42 dated 08.02.2024, under Sections 17(B)/31/29/27-A/62/85 of the N.D.P.S. Act, 1985, registered at P.S. Sirsa Sadar, District Sirsa.

2. The learned counsel for the petitioner submits that the petitioner has no concern whatsoever with the alleged recovery of 01 kg 60 grams opium, which indeed has been effected from co-accused Channa Singh. Moreover, when the allegedly recovered opium falls in the category of “intermediate 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 his co-accused, during the course of investigation, whereupon, he has been arrayed as an accused in the instant

**CRM-M-22948-2024****2**

FIR. He contests the evidentiary vigor of the said disclosure statement, on the ground that, the same was suffered by co-accused while being in police custody.

3. The record reveals that, earlier also, the petitioner was involved in commission of alike offence(s) under the N.D.P.S. Act, whereupon, (i) FIR No.256 dated 04.10.2023; and (ii) FIR No.107/2021; were registered against him respectively at P.S. Ding and P.S. Rori, District Sirsa. Not only this, the petitioner was also involved in two cases under the Excise Act. However, instead of mending his conduct after getting the concession of bail/interim bail in FIRs (supra), the petitioner again indulged in trade of narcotics, which constituted the bedrock for registration of the present FIR.

4. It would also be apt to record here that, petitioner's co-accused Harbans Singh, who is on a co-equal pedestal as the petitioner, had also approached this Court, through filing CRM-M-13940-2024, thereby seeking the relief of anticipatory bail, however, this Court has dismissed the said petition, through drawing an order thereon on 19.04.2024.

5. Although the alleged recovery of opium, as effected from the co-accused (supra), undisputedly falls in the category of "intermediate 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 is concerned, the same can only be considered and ascertained at the appropriate stage of trial.

6. Therefore, this Court does not deem it a fit case to grant the



CRM-M-22948-2024

3

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**.

7. 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.

May 27, 2024
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(KULDEEP TIWARI)
JUDGE

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