



CRM-M-32731 of 2024

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-32731 of 2024(O&M)

Date of Decision: 12.07.2024

Hargopal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Nandan Jindal, Advocate
For the petitioner.

Mr. Sidharth Attri, AAG Punjab.

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. 200 dated 08.12.2023, registered under Sections 21 and 25 of the Narcotic Drugs and Psychotropic Substances Act (for brevity, NDPS Act), Police Station Dhanaula, District Barnala,, to which offence under Section 29 of NDPS Act was added lateron.

2. The allegations in nutshell are that police recovered 280 grams of heroin from conscious possession of co-accused Arshdeep Singh @ Bittu and Sahib Singh on 08.12.2023 and thereafter the name of present petitioner also surfaced and accordingly he was nominated as accused.

3. The counsel for the petitioner submits that the petitioner is falsely implicated in the present case. That the petitioner was not named in



the FIR and lateron nominated as accused on the basis of disclosure statement made by co-accused. That the said disclosure statement, if any, suffered by co-accused against the present petitioner is inadmissible in evidence and otherwise also there is nothing on the record to corroborate the said disclosure statement suffered by the co-accused. 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.

4. The present petition is contested by the State counsel who submits that the present case is relating to recovery of commercial quantity of heroin and during investigation the petitioner was nominated as accused on the basis of disclosure statement made by co-accused 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 rigors of Section 37 of the Act and 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 from co-accused Arshdeep Singh @ Bittu and Sahib Singh and the petitioner has been nominated as accused on the basis of the disclosure statement made by co-accused 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 of investigation, the petitioner cannot take advantage of the law laid down in Tofan Singh(supra). Further, rigors of Section 37 of the Act are applicable to the present case. Recovery of commercial quantity of heroin is involved in 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.

12.07.2024
Jiten

(KARAMJIT SINGH)
JUDGE

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