



CRM-M-32938-2024

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

CRM-M-32938-2024

Date of Decision: 12.07.2024

Gurpreet Singh @ Gopi

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rahul Bhargava, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

1. The petitioner has approached this Court praying for grant of anticipatory bail in a case FIR No.66, dated 18.04.2024, registered under Sections 18(c), 25 and 29 of the NDPS Act, 1985, at Police Station Special Task Force, District Special Task Force Wing.

2. Adumbrated facts of the case are that ASI of Special Task Border Range Amritsar received a secret information that Kanwaljit Singh, Ravinderpal Singh and Gurpreet Singh @ Gopi (petitioner) were indulged in smuggling of opium on a large scale and they brought opium from Jharkhand through trucks and the same was to be supplied to the customers in villages and towns in Amritsar. It was further informed that they were bringing the opium in a Canter No.PB10-FV-7875 and if Nakabandi is done then they could be caught with large quantity of opium. Finding the information received to be credible, special report was made under Section 42 of the NDPS Act and forwarded to the office of Superintendent of Police, Special Task Force, Border Range Amritsar. A team was prepared and nakabandi was made for monitoring the vehicles. The Canter as informed was stopped. Driver and other person sitting in the Canter, on asking



disclosed their names as Kanwaljit Singh and Ravinderpal Singh. On conducting search of the Canter, 7 Kgs of opium was recovered from the vehicle. Both Kanlwaljit Singh and Ravinderpal Singh failed to produce any licence for keeping 7 Kgs of opium and thus, FIR was registered and both were arrested on the spot. The investigation commenced. During the investigation, both the accused disclosed about the complicity of the petitioner, namely, Gurpreet Singh @ Gopi as well. Apprehending arrest, the petitioner approached the Court of learned Special Judge, Amritsar for grant of anticipatory bail, however, after hearing both the sides, the Court declined the same vide order dated 28.06.2024. Aggrieved by the same, the petitioner is before this Court praying for grant of anticipatory bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. He submits that neither the petitioner was arrested on the spot nor there is any recovery effected from him. He further submits that the petitioner has been arrayed as an accused in the present case only on the basis of disclosure statement made by co-accused, which is not an admissible evidence. He submits that the petitioner is not involved in any other case. He submits that there being no evidence against the petitioner, he deserves to be granted anticipatory bail.

4. After hearing learned counsel for the petitioner and perusing the record, it is apparent that the FIR was registered on the basis of a secret information. Needless to say that the petitioner was not arrested on the spot, however, his name was specifically mentioned in the secret information received. From the co-accused, namely, Kanwaljit Singh and Ravinderpal



Singh, who were arrested on the spot, 7 Kgs of opium was recovered. During their interrogation, they disclosed about the complicity of the petitioner in the present case. As per the record, co-accused disclosed that it was on the asking of the petitioner, they brought the contraband from Bareilly by making payment of Rs.99,000/-. The contraband recovered falls in the category of commercial quantity and thus, provisions of Section 37 NDPS Act, are attracted in the present case. The petitioner has approached this Court praying for grant of anticipatory bail, however, Hon'ble Supreme Court in **The State of Haryana vs. Samarth Kumar, 2022 Livelaw (SC) 622** has held that in the cases like the present one, the accused may take advantage of facts like no recovery was effected from him and that he was implicated on the basis of disclosure statement made by the main accused, at the time of arguing regular bail application or at the time of final hearing after conclusion of trial.

5. Hon'ble Supreme Court in **State by the Inspector of Police vs. B. Ramu, 2024(1) Law Herald (SC)** has held as under:-

11. 'In case of recovery of such a huge quantity of narcotic substance, the Courts should be slow in granting even regular bail to the accused what to talk of anticipatory bail more so when the accused is alleged to be having criminal antecedents'.

6. Hon'ble Supreme Court in **State represented by CBI Vs. Anil Sharma, (1997) 7 SCC 187** has held as under:-

"6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favorable order under [Section 438](#) if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which



would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.”

6. Hon’ble Apex Court in plethora of judicial precedents including Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632, has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of his fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which should be exercised in the extraordinary circumstances.

7. Weighing the facts and circumstances of the case on the anvil of law settled, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

8. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

12.07.2024
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No