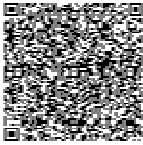


2024:PHHC:099159



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH

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CRM-M-34508-2024 (O&M)  
Date of decision: 02.08.2024

Dinesh @ China ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sushil Sheoran, Advocate  
for the petitioner.  
  
Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 482 of Bhartiya  
Nagarik Suraksha Sanhita, 2023, is for grant of anticipatory bail to the  
petitioner in FIR No. 254 dated 12.05.2024, registered under Section 18(c),  
20 and 29 of the NDPS Act, 1985 at Police Station Bhiwani Sadar, District  
Bhiwani.
2. Brief facts of the case relevant for the disposal of the present  
petition are that on 12.05.2024, co-accused Govind @ Gogi was  
apprehended by the police party and recovery of 01 kg. 50 grams of Charas  
and 102 grams of opium was effected from him. During investigation, he  
disclosed the names of two persons, namely Sachin and Krishan Kumar,  
from whom, he had purchased the recovered contraband. Thereafter, on  
13.05.2024, co-accused Sachin was arrested and he named the petitioner as  
the persons, from whom, he had purchased the recovered contraband.  
Apprehending his arrest, the petitioner had moved an application for grant of

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anticipatory bail before the Court of learned Additional Sessions Judge, Bhiwani but the same had been dismissed, vide order dated 19.06.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The petitioner was not found at the spot and has been involved in this case on the basis of the disclosure statement made by the co-accused Sachin, who was named by the main accused Gobind @ Gogi, who was arrested at the spot and from whom recovery of alleged contraband was effected. Hence, the disclosure made by a co-accused will not be admissible in law against the petitioner. He has clean antecedents. He is ready to join the investigation. No useful purpose would be served by detaining him in custody. Therefore, it is urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel, in terms of the status, has argued that there are serious and specific allegations against the petitioner. Co-accused Gobind @ Gogi, from whom the recovery of alleged contraband was effected, had disclosed that he had purchased the same from co-accused Sachin and thereafter, co-accused Sachin was arrested and on his disclosure, the present petitioner was arrayed as an accused in this case. During investigation, the allegations against the petitioner have been established. Recovery of the contraband involved in the present case is of commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would be attracted in this case. Custodial interrogation of the petitioner is must for proper investigation in the matter as well as for effecting further recovery of contraband and drug money. It is, thus, argued that the petition is liable to be dismissed.

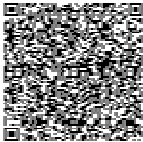
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5. I have learned counsel for the parties at considerable length and have also perused the material placed on record.

6. The petitioner has been nominated in this case on the basis of the disclosure made by co-accused Sachin, who himself was nominated in this case on the disclosure statement suffered by co-accused Gobind @ Gogi, who was apprehended by the police party and from whom, recovery of the alleged contraband was effected. The quantity of the contraband (*Charas*) recovered from the co-accused falls within the commercial quantity, though it is marginally high from the threshold quantity. Although, the petitioner was not found at the spot and was nominated in this case on the basis of the disclosure made by the aforesaid co-accused, but during investigation, it has been found that he had sold the recovered contraband to co-accused Sachin for an amount of Rs. 20,000/-. During investigation, it has also surfaced that the petitioner is not a student and even his father is involved in 04 FIRs under the NDPS Act. As per call details record obtained by the police, the petitioner and accused Gobind @ Gogi were in constant touch on phone from 03.05.2024 to 05.05.2024. Hence, the disclosure statement suffered by co-accused cannot be disbelieved and the complicity of the petitioner in the subject crime cannot be ruled out, at this stage. The custodial interrogation of the petitioner is required for proper investigation in the matter. The well settled proposition of law is that while considering an application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses. The powers under Section 438 of Cr.P.C. are to be exercised in

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extraordinary and sparing circumstances. More so, custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of Cr.P.C. Many useful information can be disinterred during custodial interrogation. It has also to be seen that an order of anticipatory bail does not operate as inroad in the normal legal procedure of criminal cases by the trial Court. It is also a matter of discretion to grant or not to grant pre-arrest bail. Keeping in view the discussion as made above, I am of the considered opinion that no extraordinary or sparing circumstance entitling the petitioner to seek concession of pre-arrest bail has been made out rather his custodial interrogation is required for thorough investigation in the matter by the police. Accordingly, finding no merit, the petition is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

02.08.2024

*Waseem Ansari*

(MANISHA BATRA)  
JUDGE

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*