



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

102

CRM-M-39524-2024

DATE OF DECISION: 14.08.2024

BHAJAN SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Abhilasha Kainth, Advocate for
Mr. B.S.Bhalla, Advocate for the petitioner(s).
Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)1. Relief Sought

The jurisdiction of this Court under Section 482 of The Bharatiya Nagarik Suraksha Sanhita, 2023 has been invoked seeking the concession for the grant of anticipatory bail to the petitioner in FIR No.64 dated 16.06.2024, under Section 22 of The Narcotic Drugs and Psychotropic Substances Act, 1985 (later on Section 29 of the NDPS added) registered at Police Station Bhindi Saidan, District Amritsar.

2. Prosecution story set up in the present case as per the version in the FIR read as under :-

'Station House officer, Bhindi Saidan, Sat Sri Akal, Today I SI alongwith ASI Lakhwinder Singh 205, S/CT Sukhdev Singh 1107, PHG Maloog Singh 3423, PHG Kuldeep Singh 3543 alongwith laptop kit was going in a government vehicle being driven by CT Jaskaran Singh 1958 from village Bhindi Saidan to village Mohalke village Saidpur etc. and when the police party



reached the house of Shingara Singh r/o Saidpur then one clean shaven person was seen coming on motor cycle Platina and after seeing the police he threw the motor cycle and started running towards his house and was about to throw one plastic bag after taking out from the right pocket of his pant then I SI with the help of team members caught hold him from his right wrist and on enquiry he disclosed his name as Rattan Singh s/o Shingara Singh r/o village Saidpura Kalan P.S. Bhindi Saidan. An effort was made to join independent witness from the public from checking the bag but no body was ready for that and then I SI checked the bag in the presence of team members and recovered 102 loose tablets which were put in a separate plastic box and a cloth parcel was prepared and I SI put my seal of LS on it which was later on handed over to ASI Lakhwinder Singh 205. The said loose tablets and motor cycle Platina black colour Chassis No.MD2B63AX4PPG31093, Engine No. PFXPPG36237 were taken into police possession by way of separate fard. Since the recovery was by chance therefore Illaga Magistrate or Gazetted Officer could not be called on the spot. The information under Section 57 of NDPS Act is being sent to GIO. The accused Rattan Singh s/o Shingara Singh by keeping 102 loose tablets in his possession without any license or prescription has committed an offence u/s 22/61/85 of NDPS Act. Ruqa is being sent to police station through PHG Malook Singh 3423 for registration of the case and the number of the case be informed after registering the same. Special report be issued to high officials and control room be informed through wireless message. I SI alongwith others am busy On the spot for investigation. Sd/- Lakhwinder Singh SI.'

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner has argued that the



petitioner has been falsely implicated in the present case. She contends that the present petitioner was not named in the instant FIR initially but is nominated only as an accused post addition of the Section 29 of the NDPS Act on the disclosure statement made by co-accused Rattan Singh. It is further pointed out in version of the instant FIR that alleged recovery of 102 intoxicant tablets is effected from co-accused Rattan Singh and not from the present petitioner.

Notice of motion.

Learned State Counsel appearing on advance notice accepts the same.

On behalf of the State

Learned State Counsel on instructions from ASI Ranjit Singh opposes the prayer for grant of anticipatory bail on the grounds that after an interim protection was granted by the Trial Court, the petitioner failed to join the investigation despite being granted five opportunities for the same. Whereas the said statement is countered by counsel for the petitioner stating that on each and every occasion the petitioner had gone to the Investigating officer but purposely with ulterior motive he was not made to join the investigation. Apart from that no other incriminating material or any other argument raised by the State Counsel for opposing the prayer sought by the present petitioner.

4. Analysis

Be that as it may, having regard to the aforesaid factual aspects and the larger bench of the Apex Court in “*Toofan Singh vs.*



State of Tamilnadu”; 2020 (1) RCR (Criminal) 1; has held that the confessional statement made by co-accused under Section 67 of NDPS Act is a very weak piece of evidence and cannot be a basis for the conviction of a person and has to be weighed very cautiously along-with other piece of evidences.

Further considering the fact that admittedly no recovery has been effected from the possession and has only been nominated as an accused subsequently on the basis of the disclosure statement of co-accused Ratan Singh. Hence, this Court finds no reason to deny the concession of anticipatory bail to the petitioner wherein the petitioner has bona fide intentions and is also willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency in time.

5. **Decision**

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on anticipatory bail subject to his joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of which are reproduced below :-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-



- (i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
- (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
- (iii) a condition that the person shall not leave India without the previous permission of the Court;*
- (iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'*

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stands cancelled.

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

14.08.2024
anuradha

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No