



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

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CRM-M-45639-2024 (O&M)
Date of decision: 30.09.2024

Pale Khan	...	Petitioner
Versus		
State of Haryana	...	Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rahul Rathore, Advocate
for the petitioner. (Through VC)

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*), is for grant of anticipatory bail to the petitioner in FIR No. 301 dated 01.08.2024, registered under Section 20 of the NDPS Act, 1985 at Police Station Ladwa, District Kurukshetra.
2. Brief facts of the case relevant for the disposal of the present petition are that on 01.08.2024, co-accused Ajay Kumar and Ravinder were apprehended by a police and recovery of 01 kg. 10 grams of *Charas* was effected from them. The petitioner has been nominated in this case on the basis of the disclosure statements suffered by the aforesaid co-accused, wherein they disclosed that the petitioner had supplied them the recovered contraband for a sum of Rs. 60,000/-. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Kurukshetra but the same had been dismissed, vide order dated 28.08.2024.

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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, which is not admissible in law. In fact, the aforesaid co-accused have deliberately implicated the petitioner in this case as the petitioner had performed marriage with their niece against their wishes and had approached this Court seeking protection of their life and liberty by filing a petition bearing number **CRWP-P6314-2022**, which was allowed, vide order dated 30.06.2022. The petitioner is ready to join the investigation. No recovery is to be effected from him. Therefore, it is urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel, in terms of the status report filed today in Court, has vehemently opposed the prayer of the petitioner by arguing that although, the petitioner has been nominated in this case on the basis of the disclosure statements suffered by the aforesaid co-accused but his complicity in the subject offence has been established during the course of investigation. The petitioner had supplied the recovered contraband to the co-accused for a sum of Rs. 60,000/-. The quantity of the recovered contraband falls under the commercial quantity, hence, the rigors of Section 37 of the NDPS Act would be attracted in this case. The criminal antecedents of the petitioner are not clean as he is involved in 05 more FIRs, out of which, one FIR is under the NDPS Act. Custodial interrogation of the petitioner is must for proper investigation in the matter as well as for effecting further recovery of contraband, if any. It is, thus, argued that the petition is liable to be dismissed.

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

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6. The petitioner has been nominated in this case on the basis of the disclosure statements suffered by co-accused Ajay Kumar and Ravinder, from whose custody, recovery of 01 kg. 10 grams of *Charas* was effected, which falls under the commercial quantity. The allegations against the petitioner are that he had supplied the recovered contraband to the aforesaid co-accused against payment of a sum of Rs. 60,000/-. He is stated to be involved in 05 more criminal cases, out of which, one FIR is under the NDPS Act. Obviously, the criminal antecedents of the petitioner are not clean. Since the quantity of the alleged contraband recovered in the present case falls under the commercial quantity, the rigors of Section 37 of the NDPS Act would certainly be attracted in this case. 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 482 of BNSS are to be exercised in 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 482 of BNSS. 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 her 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.

30.09.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>