



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

CRM-M-47283-2024

Date of decision: 23.09.2024

Jagseer Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. K.S. Brar, Advocate for the petitioner.

Mr. J.S. Dhaliwal, AAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 482 of BNSS 2023 seeking grant of anticipatory bail in a case having FIR No.87 dated 06.08.2024 under Sections 21 (c) and 29 NDPS Act, Police Station Nathana, District Bathinda.

2. The allegations in nutshell are that on 06.08.2024, police recovered 402 grams of heroin from a car in which co-accused Manpreet Singh son of Jasmander Singh, Harshdeep Singh and Manpreet Singh son of Avtar Singh were traveling. The present petitioner was nominated as accused on the basis of disclosure statement of aforesaid co-accused and is required by the police.

3. The counsel for the petitioner submits that the petitioner who was not named in the FIR was later on nominated as accused on the basis of disclosure statement suffered by co-accused. It is further submitted that any such disclosure statement suffered by co-accused against the present petitioner is not admissible in evidence, as has been held by the Hon'ble Supreme Court in *Tofan Singh Vs. State of Tamil Nadu (2021) 4 SCC 1*. It is further submitted that the petitioner is ready to join the investigation with the police.



4. The present petition is resisted by the State counsel who submits that police recovered 402 grams of heroin from three persons on 06.08.2024 and thereafter, petitioner is nominated as accused on the basis of disclosure statement suffered by co-accused. It is further submitted that the petitioner who is also involved in another one case under NDPS Act is required by the police for proper investigation in the present case. However, the State counsel has not disputed the fact that petitioner is released on bail in the said case registered under NDPS Act.

5. The present case is relating to recovery of commercial quantity of contraband and is covered by rigors of Section 37 NDPS Act. Further, in *State of Haryana Vs. Samarth Kumar MANU/SC/1173/2022*. The Hon'ble Supreme Court held that the accused may be able to take advantage of decision in **Tofan Singh's case** (supra) at the time of seeking regular bail or at the time of final hearing after the conclusion of trial. Petitioner is also involved in one another case relating to recovery of non commercial quantity of contraband wherein he is enlarged on bail.

6. In light of the fact that at this initial stage, petitioner cannot take benefit of the ratio laid down in **Tofan Singh's case** (supra) and further in the present case, recovery effected comes under commercial quantity, no ground is made out to grant of concession of anticipatory bail to the petitioner. Consequently, the present petition is hereby dismissed.

7. However, it is made clear that any observation made herein above is not to be construed as an expression of opinion on the merits of the case.

23.09.2024

Yogesh

**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No