



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

105

CRM-M-47351-2024 (O&M)
Date of decision: 23.09.2024

Sikandar Singh @ Sikander Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No. 180 dated 01.10.2023, registered under Sections 22 and 29 of the NDPS Act, 1985 at Police Station Samana, District Patiala.
2. Brief facts of the case relevant for the disposal of the present petition are that on 01.10.2023, ASI Gurdev Singh received a secret information that co-accused Ravi, who was accused in NDPS case and was absconding, used to come to his house during odd hours. It was also informed that he was bringing intoxicant tablets in large quantity and selling the same to others and had concealed intoxicant tablets in the heap of bricks. Believing the information to be true, a raid was conducted at the informed place and recovery of 6000 intoxicant tablets (Tramadol Prolonged Release) was effected. Thereafter, on 09.04.2024, co-accused Ravi was arrested by the police party. During investigation, his disclosure statement was recorded, wherein he disclosed that he used to sell intoxicant tablets to the present



petitioner. On the basis of this disclosure, the petitioner has been nominated as an accused in this case. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Judge, Special Court, Patiala but the same had been dismissed, vide order dated 03.09.2024.

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, which is not admissible in evidence against the petitioner. Nothing has to be recovered from the petitioner. 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. To fortify his argument, learned counsel for the petitioner has relied upon the authority of Hon'ble Supreme Court rendered in ***Tofan Singh vs. State of Tamil Nadu : (2021) 4 SCC 1.***

4. *Per contra*, learned State counsel, who has advance notice of the petition, has vehemently opposed the prayer of the petitioner by submitting that though the petitioner has been nominated in this case on the basis of the disclosure statement suffered by the aforesaid co-accused, however, during the course of investigation, his complicity in the subject offence has been established. Since the aforesaid co-accused is the cousin of the petitioner, it cannot be believed that he would falsely implicate the petitioner in this case. Criminal antecedents of the petitioner are not clean as he was involved in two more cases under the NDPS Act, out of which, in one case, he has undergone the entire sentence and in another case, he is on



bail. It is further argued that since a commercial quantity of the contraband has been recovered, 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, 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.

6. The petitioner has been nominated in this case on the basis of the disclosure made by aforesaid co-accused Ravi, from whose house, recovery of 6000 intoxicant tablets was effected on 01.10.2023 and thereafter, he was arrested on 09.04.2024. A perusal of the petition itself shows that the petitioner is involved in two more cases under the NDPS Act, though he has undergone the entire sentence in one case and in another case, he is stated to be on bail. Huge recovery of intoxicant tablets has been effected in this case, which obviously falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted in this case. Custodial interrogation of the petitioner is must for proper investigation in the matter and for effecting recovery of the contraband, if any. So far as the ratio of law as laid down by Hon'ble Supreme Court in ***Tofan Singh***'s case (supra) is concerned, the same stands clarified by Hon'ble Supreme Court in ***State of Haryana vs. Samarth Kumar : 2022(3) RCR (Criminal) 991***, wherein it has been held that the advantage of decision of ***Tofan Singh***'s case (supra) can be taken in regular bail application or at the time of final hearing after conclusion of trial and



not while seeking concession of pre-arrest bail. 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. 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.

23.09.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*