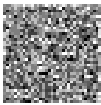


108

2024:PHHC:125373



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47571-2024
DECIDED ON: 23.09.2024

ANIKET

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Kuldip Singh, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 of BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.284, dated 05.07.2024, under Section 21 of NDPS Act (Section 29 of NDPS Act added later on vide DDR No.22, dated 05.07.2024), registered at Police Station City Ferozepur, District Ferozepur.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“SHO PS City Ferozepur, "Sat Shri Akal". Today I ASI along with ASI Gurdev Singh No.674/ Ferozepur, ASI Ranjit Singh No.842/ Ferozepur, HC Jagtar Singh No. 143/Ferozepur, HC Balwinder Singh No. 1559/Ferozepur, PHG Gurmeet Singh No.6233 in the Government Vehicle

Bolero No. PB-05AB-0686, which is driven by Senior Constable Gurjant Singh No.275/Ferozepur along with laptop-printer set had left for the area of PS Cantt. Ferozepur, PS City Ferozepur, PS Sadar Ferozepur etc. regarding patrolling and search of suspicious persons and suspicious vehicles. When police party went to Bagdadi gate, Ferozepur City via Dhawan Colony then one shorn haired person was seen standing on our left side in the vacant area adjoining to the road near the park but on seeing the police vehicle got perplexed threw red coloured polythene bag from right pocket of his lower. On seeing the suspicious activity of that person, I ASI immediately stopped the vehicle apprehended said youth with the help of fellow officials and asked his name/address by introducing my identity who disclosed his name as Makhan son of Hayata, resident of Gali No.16, Old Sabzi Mandi, Bagdadi Gate, Ferozepur City. I ASI tried to join the nearby public witness but everyone showed their inability and did not get ready. I ASI directed HC Jagtar Singh No. 143/Ferozepur to shoot the videography / photography by giving him Android mobile phone company Samsung colour purple and I SI in the presence of witnesses, checked the red coloured polythene bag thrown by Makhan then heroin was recovered from the polythene bag, I ASI weighed the same on computer scale then it comes to 112 grams heroin along with red coloured polythene bag which has been put in plastic box and prepared the parcel and I attest the parcel with my seal GS. According to my direction on this crime scene, HC Jagtar Singh No. 143/Ferozepur has shoot the videography/photography. Sample seal has been prepared separately. Seal after use has been handed over to ASI Gurdev Singh No.674/Ferozepur. I ASI have taken the above mentioned

parcel of recovered heroin attested with seal along with sample seal, into police custody through recovery memo. Accused Makhan has committed the offence u/s 21 of NDPS Act for keeping heroin in his possession. Upon which I ASI after recording the ruqa is being sent to police station through PHG Gurmeet Singh 6233. After registering the case, FIR number be intimated. PCR be informed. I ASI along with fellow officials is busy in investigation. In the area of park near Bagdadi Ferozepur City. Sd/- Gurcharan Singh ASI CIA Staff, Ferozepur, dated 05.07.2024 at 6:10 AM.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner was not initially named in the FIR but was subsequently roped in only on the basis of disclosure statement made by co-accused Makhan Singh. He further contends that the petitioner was not present at the spot and no specific allegation is coming forth against the present petitioner to connect him with the alleged contraband i.e. 112 grams of heroin which otherwise also is non-commercial in nature.

On behalf of the State

Learned State Counsel appearing on advance notice, opposes the grant of anticipatory bail to the petitioner on the ground that the said contraband is stated to have been supplied by the present petitioner to the co-accused Makhan Singh.

4. **Analysis**

Be that as it may, considering the facts that the petitioner was nominated as an accused only on the basis of disclosure statement of co-accused Makhan Singh; the alleged contraband i.e. 112 grams of heroin even otherwise was recovered from the co-accused Makhan Singh, which is non-commercial in nature and the fact that custodial interrogation of the petitioner is not required at this stage as nothing is to recovered from him.

5. **Decision**

In the light of above, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, 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 a period of one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

23.09.2024

Poonam Negi

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No