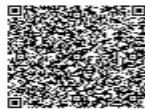


2024:PHHC:133006



101 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-50110-2024
DECIDED ON: 08.10.2024

HARPAL SINGH

PETITIONER

VERSUS

STATE OF HARYANA

RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Amit Singla, Advocate, for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 482 of BNSS, 2023 has been invoked for grant of anticipatory bail to the petitioner in case FIR No. 191, dated 02.04.2024, under Sections 15 (b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the Act') (Section 27-A and 29 of NDPS Act, 1985 added later on), registered at Police Station City Tohana.

2. Facts

Briefly stated, the case of prosecution is that on 02.04.2024, a police party headed by ASI Kapil Dev, on the basis of secret information, apprehended co-accused Simran wife of Madan Lal and recovery of 04 kg. 500 grams Poppy-husk (Kachra Doda Post) was effected from her, in the presence of Sh. Love Kumar, ETO, Fatehabad. On this, present case was registered. During investigation, co-accused Simran wife of Madan Lal

was arrested, who, on interrogation, suffered disclosure-statement regarding her involvement in the crime and further disclosed that she had purchased the recovered contraband from accused Harpal Singh, who is yet to be arrested.

3. **Contentions**

On behalf of the petitioner:

Learned counsel for the petitioner contends that there is an unexplained delay in lodging the FIR and *prima-facie* offence under Section 15 (b), 24-A and 29 of the NDPS is not made out. It is further contended that whatever recovery of the alleged contraband i.e. 4kg 500 grams of Poppy husk has been effected from the main accused Simran. It is submitted on behalf of the petitioner that he has been nominated as an accused only on the basis disclosure statement suffered by the main accused whose disclosure has been obtained by the police while in custody, which has no evidentiary value in the eyes of law. Apart from that the alleged contraband if at all recovered from the co-accused is non-commercial in nature.

Notice of motion.

On behalf of respondent-State

On the asking of Court, Mr. Gurmeet Singh, AAG Haryana, having been served with an advance copy, accepts the notice on behalf of respondent-State. He submits there is no delay in registration of FIR as it was registered on the same day of the recovery of the alleged contra-band and the main accused Simran was also apprehended on that very day. However, apart from that, learned counsel could not controvert the fact that the recovery whatsoever, has been effected from the co-accused namely

Simran on whose disclosure statement he has been nominated as an accused. He also points out that the petitioner is also involved in another case of similar nature i.e. FIR No. 268, dated 02.09.2024, under Section 15 of NDPS, Act, 1985, registered at Police Station Tohana, District Fatehabad.

4. Analysis & Conclusion

Admittedly, the petitioner was nominated as an accused on the basis of disclosure statement suffered by the main accused namely Simran and the recovery whatsoever has been effected from the main accused Simran. Nothing is to be recovered from the petitioner.

As far as the contention of the learned State counsel with regard to the pendency of other case is concerned, reliance can also be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as ***“Baljinder Singh alias Rock vs. State of Punjab”*** decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would lend the petitioner in a situation of denial the concession of bail.

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 him joining the investigation and reporting to the Investigating

Officer concerned within a period of 10 days from today, upon 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 10 days, the order passed by this Court today shall automatically, stand cancelled.

In the afore-said terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

08.10.2024
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- 1. Whether speaking/ reasoned : Yes / No
- 2. Whether reportable : Yes / No