

211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53452-2023

Date of Decision: 09.01.2024

Monty @ Biddu

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Raman Chawla, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 438 Cr.P.C. with a prayer to grant anticipatory bail to him in case FIR No.493 dated 11.05.2022, registered under Sections 21(B) and 27-A/61/85 of NDPS Act, 1985, at Police Station Barwala, District Hisar.

2. As per case of the prosecution, on 11.05.2022, two accused, namely, Parmeet @ Kala and Nisha Devi were arrested by the police, while they were having 82.40 grams of heroin in their conscious possession. Both the accused Parmeet @ Kala and Nisha were ordered to be arrested by the police.

3. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case and has been nominated as an accused only on the basis of the disclosure statement suffered by the co-accused. It is further contended that except the disclosure statement suffered by the co-accused, there is no other evidence to connect the petitioner to the alleged crime.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner was involved with Parmeet @ Kala and Nisha Devi, his co-accused in the trafficking of drugs. Apart from that, one more case i.e. FIR No. 499 of 2022 under Section 21 of NDPS Act, at Police Station Jind City, District Jind was also registered against the present petitioner and the petitioner is not entitled to bail. Learned State counsel has also relied upon the law laid down by the Hon'ble Supreme Court in the matter of ***“State of Haryana Vs. Samarth Kumar”***, 2022 LiveLaw (SC) 622, wherein the Hon'ble Supreme Court has held as under:-

- “4. The High Court decided to grant pre-arrest bail to the respondents on the only ground that no recovery was effected from the respondents and that they had been implicated only on the basis of the disclosure statement of the main accused Dinesh Kumar. Therefore, reliance was placed by the High Court in the majority judgment of this Court in ***Tofan Singh v. State of Tamil Nadu*** reported in (2021) 4 SCC 1.
5. But, it is contended by the learned Additional Advocate General appearing on behalf of the State of Haryana that on the basis of the anticipatory bail granted to the respondents, the Special Court was constrained to grant regular bail even to the main accused-Dinesh Kumar and he jumped bail. Fortunately, the main accused-Dinesh Kumar has again been apprehended. According to the learned Additional Advocate General, the respondent in the second of these appeals is also a habitual offender.
6. Learned counsel appearing on behalf of the respondent in the first of these Appeals contends that

the State is guilty of suppression of the vital fact that the respondent was granted regular bail after the charge-sheet was filed and that therefore, nothing survives in the appeal. But, we do not agree.

- 7. The order of the Special Court granting regular bail to the respondents shows that the said order was passed in pursuance of the anticipatory bail granted by the High Court. Therefore, the same cannot be a ground to hold that the present appeals have become infructuous.
- 8. In cases of this nature, the respondents may be able to take advantage of the decision in **Tofan Singh v. State of Tamil Nadu (supra)**, perhaps at the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial.”

- 5. I have heard learned counsel for the parties and perused the record.
- 6. It is apparent from the record that the petitioner is involved in one more case under NDPS Act and the Hon'ble Supreme Court has held in various judgments that the Courts should be circumspect in granting bail to such offenders, who are involved in more than one cases of NDPS Act. Even otherwise, such submissions can only be considered by this Court, while considering the regular bail of the petitioner, as held by the Hon'ble Supreme Court in the matter of **“State of Haryana Vs. Samarth Kumar”, 2022 LiveLaw (SC) 622.**

- 7. Finding no merits, the petition is ordered to be dismissed.

(N.S.SHEKHAWAT)
JUDGE

09.01.2024
hemlata

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No