



212

Date of decision: 08.11.2024

...Petitioner

Versus

...Respondent

Present:- Mr. Ankit Kharbanda, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 482 of BNSS, 2023, is for grant of anticipatory bail to the petitioner in FIR No. 0113 dated 20.06.2024, registered under Sections 21 and 29 of the NDPS Act, 1985 at Police Station Kamboj, District Amritsar (Rural).
2. Brief facts of the case relevant for the disposal of the present petition are that on 20.06.2024, co-accused Jatinder Singh @ Babba and Rajwinder Singh @ Bhindu were apprehended by a police party headed by SI Shamsheer Singh and recovery of 21 grams and 16 grams of heroin was effected from them, respectively. They were formally arrested at the spot. During the course of investigation, co-accused Jatinder Singh @ Babba suffered disclosure statement to the effect that he and his brother had purchased heroin from the petitioner. On the basis of the said disclosure, the petitioner has been nominated in this case. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the

2024:PHHC:145678



Court of learned Additional Sessions Judge, Amritsar but the same had been dismissed, vide order dated 23.09.2023.

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 aforesaid co-accused, which is not admissible in evidence. Even otherwise, the quantity of the contraband recovered from the co-accused does not fall within the ambit of commercial quantity. The petitioner is not involved in any other case under the NDPS Act. 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.

4. *Per contra*, learned State counsel, in terms of the status report filed today in Court, has argued although the petitioner has been nominated in this case on the basis of the disclosure statement suffered by the co-accused but during the course of investigation, the complicity of the petitioner in the subject offence has been established. The allegations against him are that he had supplied the recovered contraband to the co-accused. Investigation qua aforesaid co-accused has been completed and *challan* has been filed but the investigation qua the petitioner is pending. Custodial interrogation of the petitioner is required 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.

2024:PHHC:145678



6. The petitioner has been nominated in this case on the basis of the disclosure made by co-accused Jatinder Singh @ Babba, wherein he named the petitioner as supplier of the recovered contraband. Admittedly, the quantity of the contraband recovered from the co-accused does not fall under commercial quantity. The petitioner is not shown to be involved in any other case under the NDPS Act. Investigation qua aforesaid co-accused has already been completed and *challan* has been presented against them. The petitioner is ready to join the investigation. Keeping in view the aforesaid facts and circumstances of the case, I am of the considered opinion that no useful purpose would be served by detaining the petitioner into custody.

7. Accordingly, the present petition is allowed and the petitioner is granted concession of anticipatory bail. He is directed to appear before the Investigating/Arresting Officer to join investigation within a period of ten days from today or as and when subsequently required thereafter. In the event of his arrest, the Investigating/Arresting Officer shall release the petitioner on bail subject to his/her satisfaction. The petitioner shall also abide by the conditions as envisaged under Section 482(2) of BNSS, 2023.

8. 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.

08.11.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No