



206 **IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM-M-59404-2023
Date of Decision:24.05.2024**

SONA SINGH

..... Petitioner

VERSUS

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Rajiv Kumar Saini, Advocate
 for the petitioner.

Mr. Jasjeet Singh Dhaliwal, AAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case having FIR No.192 dated 24.10.2023, registered under Sections 21(c), 27(a), 29 of NDPS Act at Police Station Dinanagar, District Gurdaspur.
2. The allegations in nutshell are that on 24.10.2023, police apprehended Pargat Singh, Rajbir Singh and Jagtoot who were travelling in a car No. DL-8CAA-1314. On checking 520 grams of heroin and drug money worth Rs.14,38,550 were recovered from the dashboard of the said car. During interrogation the said accused suffered disclosure statements regarding involvement of one Gujar and the present petitioner. Accordingly the petitioner who is seeking anticipatory bail is nominated as an accused in the present case. In this very case, during investigation



another 65 grams of heroin and drug money worth Rs.1.5 lacs were recovered at the instance of co-accused Pargat Singh.

3. Counsel for the petitioner submits that as per prosecution version it was second disclosure made by the co-accused wherein he disclosed about the involvement of the present petitioner in drug trafficking. Counsel for the petitioner further submits that the petitioner was granted interim bail by the Co-ordinate Bench of this Court vide order dated 24.11.2023 and by virtue of the said order petitioner has joined investigation with the police. It is further submitted that in the given circumstances, as petitioner was not named in the FIR and was nominated as accused on the basis of second disclosure suffered by co-accused and the same being inadmissible in evidence, in the light of the law laid down by Hon'ble Supreme Court in "**Tofan Singh Vs. State of Tamil Nadu**" reported in (2021) 4 SCC 1, the present petition deserves to be allowed.

4. State counsel while opposing the present petition submits that the case is relating to recovery of commercial quantity of contraband from possession of the co-accused and as such stringent provisions of Section 37 of NDPS Act are applicable to the case of the petitioner. It is further submitted that petitioner is a habitual offender and is involved in two other cases under NDPS Act as are detailed in the status report filed by way of affidavit of Sukhwinder Pal Singh, Deputy Superintendent of Police, Dinanagar, District Gurdaspur. It is further submitted that no doubt the petitioner has joined investigation with the police but his custodial interrogation is necessary to go to the root of the case.



5. I have considered the submissions made by counsel for the parties.

6. Serious allegations are appearing on the record as commercial quantity of heroin was recovered from co-accused and the present case comes under rigors of Section 37 of NDPS Act. The present petitioner was nominated as accused on the basis of disclosure statement suffered by the other accused persons. The petitioner cannot take benefit of the ratio laid down by Hon’ble Supreme Court in Tofan Singh’s case (supra) in light of the subsequent judgment passed by the Hon’ble Apex Court in “**State of Haryana Vs. Samarth Kumar**” reported in **2022(3) RCR (Criminal) 991**. The relevancy and admissibility of the disclosure statement made by co-accused against the present petitioner cannot be considered at this initial stage. Admittedly petitioner is also involved in two other cases registered under NDPS Act and thus the case of the petitioner is covered by the embargo provided in Section 37 of NDPS Act. This Court is of the view that the custodial interrogation of petitioner is necessary for proper and effective investigation of the case.

7. In light of the above, the present petition is hereby dismissed and interim order dated 24.11.2023 passed by the Co-ordinate Bench of this Court is hereby vacated.

8. However, observations made hereinabove are not to be construed as opinion on the merits of the case.

24.05.2024

Priyanka Thakur

(KARAMJIT SINGH)
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |