

101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64033-2023

Date of Decision:18.01.2024

Sunil @ Sonu

...Petitioner

vs.

State of Haryana

...Respondent

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

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.0551 dated 28.09.2023, registered under Section 15 of NDPS Act, 1985 (Section 27-A NDPS added later on), at Police Station Rania, District Sirsa.

2. Learned counsel for the petitioner contends that the petitioner was not named in the present case and there is no averment in the FIR, which even remotely connects the petitioner with the alleged crime. Even as per the case of the prosecution, co-accused Mewa Singh was arrested by the police, as he was found keeping in his conscious possession 5 kg of poppy husk in a bag. Learned counsel further contends that the name of the petitioner had surfaced in the disclosure statement made by Mewa Singh, co-accused in the police custody and the said statement was inadmissible against him in evidence. Learned counsel further contends that in the present case, there was no evidence to connect the petitioner with the alleged crime.

3. On advance notice, Mr. Rajinder Kumar Banku, Deputy Advocate

General, Haryana has appeared on behalf of the State and has vehemently opposed the prayer made by learned counsel for the petitioner. He submits that two more cases i.e. FIR No. 60 dated 22.02.2021, under Section 15 of NDPS Act, at Police Station Rania, District Sirsa and FIR No.247/2017 under Sections 148, 149, 323, 452, 506 of IPC, at Police Station Rania, District Sirsa have also been registered against the present petitioner. Since the petitioner is a habitual offender, he is not entitled to concession of anticipatory bail by this Court. 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.”

- 4. I have heard learned counsel for the parties and perused the record.
- 5. Keeping in view the gravity of the matter and also the law laid down by the Hon'ble Supreme Court in the matter of **“State of Haryana Vs. Samarth Kumar”, 2022 LiveLaw (SC) 622**, I find no merits in the present petition, the same is ordered to be dismissed.

18.01.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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