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THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.62899 of 2024
Date of Decision: 13.12.2024

Kulwant Singh
..... Petitioner

Versus

State of Punjab
..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Abhaysher Singh, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Present second petition has been filed under Section 482 of BNSS, 2023 praying for the grant of anticipatory bail to the petitioner in case bearing FIR No.77, dated 16.09.2024, under Sections 22/29 of NDPS Act, registered at Police Station Lakho Ke Behram, District Ferozepur (Annexure P-1). Further prayer has been made for staying the arrest of the petitioner during the pendency of the present petition.
2. Learned counsel for the petitioner has vehemently contended that though the earlier petition filed by the petitioner bearing CRM-M-51769-2024 was dismissed on merits by this Court vide order dated 19.10.2024, however the second anticipatory bail petition is maintainable as per the law settled. He has relied upon the judgments passed by this Court in “*Bhisham Singh vs. State of Haryana*”, CRM-M No.13315 of



2024 and “*Padam Kumar alias Monu vs. State of Punjab*”, CRM-M No.12345 of 2024 and has submitted that in the earlier petition, the petitioner could not raise various issues involved in the case and hence, the present second petition is maintainable. He has submitted that as per the case of prosecution, the petitioner was not arrested on the spot and he was later on arrested by the Investigating Agency. He has further submitted that the recovery effected from the co-accused is of 550 intoxicating tablets of Tapentadol Hydrochloride, which is not covered under the NDPS Act. He has thus submitted that the present petition is maintainable and the petitioner deserves to be granted anticipatory bail.

3. Notice of motion.

4. On asking of the Court, Mr. J. S. Arora, DAG, Punjab appears and accepts notice on behalf of the respondent-State. He however has opposed the submissions made by learned counsel for the petitioner and has submitted that the second anticipatory bail filed by the petitioner is not maintainable as the earlier petition was dismissed on merits.

5. Heard.

6. The Court has heard learned counsel for the parties and perused the record with their able assistance.

7. After appreciating the judgments relied upon by learned counsel for the petitioner, this Court finds that there is no dispute regarding the law settled by this Court in “*Bhisham Singh vs. State of Haryana*”, CRM-M No.13315 of 2024 and “*Padam Kumar alias Monu vs. State of Punjab*”, CRM-M No.12345 of 2024 but this Court had



already appreciated the arguments raised by learned counsel for the petitioner in the earlier petition.

8. Learned counsel for the petitioner now contends that in addition to the earlier grounds, the recovered contraband of 550 intoxicant tablets of Tapentadol Hydrochloride does not fall under the NDPS Act. On appreciation of the prosecution case, it is apparent that the petitioner along with the co-accused was duly named in the FIR, however he managed to escape from the place of occurrence whereas the co-accused was arrested on the spot. Except contending that the recovered contraband is not covered under the NDPS Act, the petitioner has not placed anything on the record to substantiate his arguments.

9. Thus this Court does not find any change in the circumstances in the present case entitling the petitioner to file second petition and hence, the same is hereby dismissed.

13.12.2024

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(RAJESH BHARDWAJ)
JUDGE

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