



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-4223-2025
Date of decision: 27.02.2025

Suresh @ Fauji

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Ramnish Puri, Advocate for the petitioner.

Mr. Karan Garg, AAG, Haryana.

KARAMJIT SINGH, J. (ORAL)

1. Prayer is for grant of anticipatory bail to the petitioner in criminal case having FIR No.369 dated 15.08.2024 registered under Sections 15(c) of NDPS Act. (Section 29 NDPS Act added later on) at Police Station City Fatehabad, District Fatehabad.

2. The allegations in nutshell are that police apprehended vehicle No.HR-46-C-9284 and arrested co-accused Rahish and Ravi Kumar at the spot. On checking of the said vehicle, 377 kg 980 grams of poppy husk contained in 16 plastic bags, was recovered. Thereafter, during investigation, co-accused Rahish suffered disclosure statement with regard to involvement of the present petitioner in the aforesaid drug trafficking. Resultantly, petitioner was nominated as an accused. Apprehending his arrest, the petitioner has filed the present application.

3. Counsel appearing on behalf of the petitioner submits that the petitioner is falsely implicated in the present case, which was registered



against Rahish and Ravi Kumar from whom police recovered, poppy husk. It is further submitted that alleged disclosure statement suffered by co-accused Rahish against the present petitioner is inadmissible in evidence in the light of the law laid down by Hon'ble Supreme Court in ***Tofan Singh Vs. State of Tamil Nadu (2021) 4 SCC 1***. It is further submitted that petitioner is not involved in any other criminal case under NDPS Act and is ready to join investigation with the police.

4. Status report filed on behalf of the State by way of an affidavit of Kulwant Singh, Deputy Superintendent of Police, Bhuna, Fatehabad was taken on record along with documents Annexure R-1 to Annexure R-5.

5. The present petition is resisted by the State counsel who submits that the instant case is relating to recovery of commercial quantity of contraband from co-accused Rahish and Ravi Kumar. It is further submitted that during investigation, co-accused Rahish suffered disclosure statement with regard to involvement of the petitioner in transportation of the poppy husk in question and thereafter, the petitioner was nominated as accused and is required by the police for the purpose of proper investigation.

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

7. The FIR in this case registered against co-accused Rahish and Ravi Kumar from whom, police recovered commercial quantity of poppy husk. The rigors of Section 37 NDPS Act are applicable to the instant case. However, it is not disputed that the present petitioner is nominated as an accused only on the basis of the disclosure statement suffered by co-accused



Rahish who was arrested at the spot and further, the petitioner is having no criminal antecedents under NDPS Act.

8. At this stage, when the investigation is at its nascent stage, the petitioner cannot take benefit of ratio laid down in **Tofan Singh's case (supra)**, as he is seeking grant of anticipatory bail. The Hon'ble Supreme Court in *State of Haryana Vs. Samarth Kumar 2022 (3) RCR (Criminal) 991* has held that in case of this nature, the accused may be able to take advantage of the decision in **Tofan Singh's case (supra)**, perhaps at the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial.

9. In light of the above, no ground is made out to give concession of anticipatory bail to the petitioner at this initial stage.

10. Consequently, the present petition is dismissed. However, it is made clear that any observation made herein above is not to be construed as an expression of opinion on the merits of the case.

27.02.2025

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No