

Law Today Live Doc. Id. 15650

PUNJAB AND HARYANA HIGH COURT

Before: Harsimran Singh Sethi, J.

CRM-M-23808-2020

Decided on: 19.11.2020

Balkaran Singh

Petitioner

Versus

State of Haryana

Respondent

(Through video conferencing)

Present:

Mr. Kanwaljeet Singh Brar, Advocate, for the petitioner.

Ms. Rajni Gupta, Addl. Advocate General, Haryana.

Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), Section 17 – Code of Criminal Procedure, 1973 (2 of 1974), Section 438 – NDPS case – Anticipatory bail -- Keeping in view the petitioner has already been acquitted in the other two FIRs and no recovery has been done from the petitioner in present case and he has been roped on the basis of statement of co-accused -- Petitioner has made out a case for the grant of anticipatory bail, at this stage -- Petitioner directed to join the investigation forthwith and in the event of his arrest, he was ordered to be released on interim bail -- Petitioner has joined the investigation and no further interrogation is required at this stage – Interim order granting interim bail to the petitioner made absolute.

(Para 2-5)

HARSIMRAN SINGH SETHI, J. (ORAL) –

1. The petitioner is seeking anticipatory bail in FIR No. 257 dated 25.07.2020, under Section 17 of the NDPS Act, 1985 registered at Police Station Dabwali Sadar, District Sirsa.

2. Learned counsel for the petitioner contends that the petitioner has joined investigation in terms of order passed by this Court dated 25.08.2020. Order dated 25.08.2020 is as under:-

“The present petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail in respect of FIR No.257 dated 25.7.2020 under Section 17 of the NDPS Act, 1985, registered at Police Station Dabwali Sadar, District Sirsa.

Learned counsel for the petitioner argues that the petitioner has been roped in the present FIR on the basis of the disclosure statement of the co-accused. Learned counsel for the petitioner submits that there is no recovery, which has been effected from the petitioner and it is only the coaccused of the petitioner, who made the statement that 1kg, 250 grams of the opium, found in their possession, was purchased from the petitioner.

Notice of motion for 18.11.2020.

Mr. Sharad Aggarwal, A.A.G, Haryana who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of respondent-State.

Learned State counsel submits that there are other FIRs also registered against the petitioner and the truck, from which the contraband was recovered belongs to the petitioner and, therefore, there is sufficient evidence to connect the petitioner to the said recovery and, therefore, the benefit of anticipatory bail to the petitioner may be declined.

Learned counsel for the petitioner rebuts the statement made by learned State counsel by stating that in the two FIRs, which were registered against the petitioner, the petitioner has already been acquitted and further, the truck in question, from which the recovery was done, does not belong to the petitioner, which is clear from the fact that the brother of the petitioner, namely, Jaskaran Singh has filed an application for the release of the said truck on superdari.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the facts and circumstances recorded above, when the petitioner has already been acquitted in the other two FIRs and in the present case, no recovery has been done from the petitioner and the statement of the co-accused, on the basis of which, the petitioner has been roped in the present FIR, is yet to be proved in the Court of law, the petitioner has made out a case for the grant of anticipatory bail, at this stage.

Learned counsel for the petitioner undertakes that the petitioner will join and cooperate in the investigations.

The petitioner is directed to join the investigation forthwith. In the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting Officer/Investigating Officer on his furnishing bail bonds/surety bonds to the satisfaction of the Arresting Officer/Investigating Officer subject to the following conditions:-

(i) That he shall make himself available for interrogation by the police officer as and when required.

(ii) That he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the said facts to the Court or to any police officer.

(iii) That he shall not leave India without prior permission of the Court.

(iv) That he shall abide by all the conditions as enshrined under Section 438(2) Cr.P.C .”

3. Learned State counsel, who has also joined the proceedings through video conference, on instructions from ASI Ishar Singh, states that in terms of the order of this Court reproduced before, the petitioner has joined the investigation and no further interrogation is required at this stage.

4. Learned counsel for the petitioner undertakes that petitioner will join investigation and also cooperate with the investigating agency in case he is

required for the same in future as well.

5. In view of the above, the order dated 25.08.2020 granting interim bail to the petitioner is made absolute.

6. However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join investigation as and when called upon to do so.

7. In case at any given point of time hereinafter, it is felt by the investigating agency that petitioner is required for the investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

8. The petition stands disposed of.

Petition allowed.

