

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

**C.R.M-M No.31309 of 2015
Date of Decision : 01.10.2015**

Sandeep Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. A.P.S. Gill, A.A.G, Punjab.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This is a petition for grant of pre-arrest bail to the petitioner under Section 438 Cr.P.C. in case FIR No.138 dated 27.07.2015 registered under Sections 22, 61, 85 of the NDPS Act, at Police Station Sadar Patiala, District Patiala.

Reply filed by way of affidavit of Harvinder Singh Virk, PPS, Deputy Superintendent of Police (Rural), Patiala is taken on record. Copy has been supplied.

As per the FIR the police had received a secret information that the petitioner and his father would be coming from Rajpura side towards

Patiala side in a specific car with a huge quantity of contraband. Pursuant to that secret information the police had made arrangement to nab them by setting up a Naka near the Punjabi University campus. As per the allegations the car appeared, the occupants noticed the police party, stopped the car at a distance of 100 feet and tried to escape. The father of the petitioner was apprehended but the petitioner managed to escape in the paddy field which was waterlogged.

Learned counsel for the petitioner has argued that the story being trotted out is hardly credible. If a Naka had been set up and the police knew the car and the occupants it was not possible for the petitioner to have escaped. Further he has added that the entire action was taken by the officials of Police Station Sadar, Patiala, District Patiala against whom the father of the petitioner had made serious allegations in a petition before this Court and this entire exercise was one of vendetta. Learned counsel has further argued that as per the police version the father of the petitioner reposed faith in the lower ranking police officer who had set up the naka which is also not believable keeping in view the history of animosity between them. As per him it is also unlikely that his father would have implicated him as is being sought to be projected.

Learned Assistant Advocate General has argued that the seized car is in the name of the petitioner and the recoveries were of 300 intoxicating capsules and 5 liters of intoxicating liquid. As per him the story that the petitioner was able to escape cannot be said to be so highly incredible as is being sought to be projected by the learned counsel for the petitioner.

Learned counsel for the petitioner has relied upon the judgment of this Court in the matter of *Rajwinder @ Raja vs. State of Haryana*, passed in *CRM-M-3406-2011*, decided on 02.08.2011, wherein also in a case of alleged recovery of commercial quantity of contraband one person was released on anticipatory bail because he was not arrested from the spot, on the premise that this cast doubt on the story of the prosecution and that no further recovery was required.

In these circumstances, without going into the merits of the case, I do not deem it appropriate to deny anticipatory bail to the petitioner.

Resultantly, the petition is allowed. In the event of arrest of the petitioner, he shall be released on bail to the satisfaction of the Investigating Officer subject to the conditions envisaged under Section 438(2) Cr.P.C.

The petitioner is directed to appear before the investigating officer on 08.10.2015 and on any other date as and when his presence is required. In case the petitioner does not appear before the investigating officer in the aforesaid manner the present petition would be deemed to have been dismissed.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

October 01, 2015

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**(AJAY TEWARI)
JUDGE**