

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

***CRM No.M-29919 of 2015 (O&M)
Date of decision : 30.05.2016***

Nishan @ Chhana

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Ms. Loveleen Dhaliwal, Advocate for the petitioner.
Mr. Vivek Saini, DAG, Haryana.

...

TEJINDER SINGH DHINDSA, J.

This order shall dispose of the present petition filed under Section 438 Cr.P.C. seeking concession of pre-arrest bail to the petitioner in case FIR No.670 dated 04.08.2015, under Sections 18/25/27-A of the NDPS Act, 1985, registered at Police Station City Karnal, District Karnal.

While issuing notice of motion on 04.09.2015, the following order was passed by this Court:

“Learned counsel for the petitioner submits that recovery was effected on the basis of secret information and the petitioner was not found to be present at the place of occurrence. The only allegation against the present petitioner is that the contraband was to be received by him and there is no evidence to connect the petitioner with the alleged recovery in any manner. The petitioner was away to Amritsar and even his vehicle was not used in carrying any contraband. Learned counsel further submits that no other case under NDPS Act is pending against the petitioner and the alleged recovery is only 2 kg and 145 gms of opium, which is noncommercial. The

petitioner has also no concern with other accused in any manner. Learned counsel also submits that the petitioner is ready to join the investigation and nothing is to be recovered from him.

Notice of motion for 16.10.2015.

Meanwhile, the petitioner is directed to join investigation and in the event of arrest, he shall be released on interim bail to the satisfaction of the Investigating Officer. He shall join the investigation as and when required by the Investigating Officer. He shall also comply with the conditions as envisaged under Section 438(2) of the Code of Criminal Procedure, which are as under:-

(i)that the petitioner shall make himself available for interrogation before investigating officer as and when required;

(ii)that the petitioner 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 such facts to the court or to any police officer;

(iii)that the petitioner shall not leave India without the prior permission of the Court.”

Learned State counsel upon instructions from ASI Jasbir Singh would apprise the Court that the petitioner has since joined investigation.

Even though, this Court has been apprised that the petitioner is involved in another FIR under the NDPS Act but it has gone uncontroverted that such other FIR was registered on 05.09.2015 i.e. the following day when interim protection had been granted by this Court in the present FIR.

Counsel appearing for the petitioner would submit that even in relation to other FIR registered on 05.09.2015, the alleged recovery of poppy husk was non-commercial in nature and the petitioner has been granted anticipatory bail by the trial Court.

In view of the above, the present petition is allowed. Order dated 04.09.2015 passed by this Court is made absolute.

Disposed of.

30.05.2016

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**