

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-31629 of 2018

Date of Decision: 13.09.2018

Sajjan @ Bhanja

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. KVS Ahluwalia, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 438 of the Code of Criminal Procedure, 1973 is for grant of anticipatory bail to the petitioner in case FIR No.177 dated 09.07.2018 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “the Act”) registered at Police Station Bawanikhera, District Bhiwani (Annexure P-1).

As per the FIR, on 08.07.2018, a secret information was received that the petitioner, who was doing the business of selling of narcotic substance (smack) since long, was standing on the road in front of his house with smack in his possession and if a raid is conducted immediately, a heavy amount of smack can be recovered. Believing the

aforesaid information as reliable, Ruqa was sent through Constable Ranjit Singh to CIA Staff, Bhiwani for lodging a report under Section 42 of the Act in the Roznamcha and request was also made to the CIA Staff for sending more help. However, when the police officials and the secret informer proceeded on the government vehicle towards Village Orange Nagar and had reached near the bus stop, the special person signalled towards the person namely Sajjan, who was standing in front of the road wearing white T-shirt and blue jeans. When the police party reached near that man to search the polythene bag which he was holding, he immediately threw that bag and ran away towards the village and entered into the crowd of a marriage function. On searching the bag so thrown by the accused, brown colour smack was found from it. In the meantime, the man succeeded in escaping from the crowd. Though efforts were made to trace him, but the police party could not trace him. Therefore, help of some more police officials was requisitioned. On weighing the recovered plastic bag on electronic weighing machine, it was found that it contained 7 grams of smack.

The petitioner was stated to have been apprehended on 08.07.2018 itself. However, interim bail was granted to him vide order dated 23.08.2018 by this Court and he was directed to join investigation. Vide order dated 23.08.2018 itself, the Superintendent of Police, Bhiwani was directed to look into the contents of the FIR as well as footage of the CD so produced by the petitioner in Court and to submit an independent report. It was further directed to report as to whether the police personnel were involved in causing any injury to the injured lady.

Learned counsel for the petitioner has argued that the police personnel had entered the marriage function held at Village Orange Nagar, Tehsil Bawani Khera in search of the accused, where they misbehaved with one lady namely Saroj and she was injured also, but they could not trace out the real culprit and in order to cover up their lapse, the police has involved the petitioner in this case. He has further argued that the marriage was in the morning hour. The MLR was prepared at 7-30 P.M. whereas Ruqa was sent at 8-15 P.M. and the FIR was registered at 12-00 A.M. on 09.07.2018 and therefore, there is delay in lodging the FIR.

I have heard learned counsel for the parties.

Pursuant to order dated 23.08.2018, learned State counsel has filed affidavit of Ganga Ram Punia, Superintendent of Police, Bhiwani, which is taken on record. He has submitted that the petitioner is not having a clean track record, as earlier also, he was convicted and sentenced in a similar case under the NDPS Act.

The affidavit dated 12.09.2018 so furnished by Ganga Ram Punia, Superintendent of Police, Bhiwani is accompanied with the enquiry report (Annexure R-1), which suggests that the petitioner was called on 05.09.2018 to ascertain the truth, wherein he has stated that on 08.07.2018, there was a marriage in the village. In the meantime, few persons came there and caused injuries to him, whereupon, his family members also reached there who assisted him to escape. So far as the injury to the lady Saroj is concerned, the same has been caused during the scuffle and there is no evidence that the injury was caused deliberately by the police officials. In fact, the petitioner, who was otherwise having the contraband in his

possession, threw the plastic bag on seeing the police and managed to escape by entering in the marriage function. The reports also suggests that the petitioner is a previous convict under the NDPS Act and he was convicted in case FIR No.140 dated 10.05.2007 under Section 20 NDPS Act, PS Bawani Khera and was sentenced to undergo imprisonment for 5 years and fine of Rs.10,000/-.

Considering the nature of allegations so levelled against the petitioner as well as the fact that previously also, the petitioner was involved in a similar case wherein he has been convicted and sentenced, this Court does not find any reason to allow him the relief of anticipatory bail.

Accordingly, the present petition is dismissed.

September 13, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No