

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

CRM-M-36767 of 2018.

Decided on:-September 05, 2018.

Satyawan @ Satte.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Balraj Gujjar, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J.

Prayer in this petition filed under Section 438 Cr.PC is for grant of pre-arrest bail to the petitioner in FIR No.192 dated 20.07.2018 under Section 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the NDPS Act) registered at Police Station Bawani Khera, District Bhiwani.

The aforesaid FIR was registered on the basis of a secret information that Mukesh son of Dayal Singh, caste Sahansi, resident of village Kungar is indulged in the sale and purchase of narcotics and was standing near the Water Works, Kungar with a contraband in a polythene bag so as to sell it somewhere else. On receipt of said information, the police party reached near the Water Works, village Kungar and a boy was seen standing there having polythene of light green colour in his right hand. He

was apprehended and he disclosed his name as Mukesh son of Dayal Singh. After serving a notice under Section 50 of the NDPS Act to the accused, the polythene bag was checked and a total 825 grams of wet smack was recovered from the possession of accused. On inquiry from accused Mukesh, he disclosed that he had purchased the contraband from Satyawar alias Sate son of Mahender Singh, resident of village Kungar (petitioner herein).

Learned counsel for the petitioner has argued that the petitioner has falsely been implicated in the case and he has nothing to do with the offence because he neither knows accused Mukesh nor he ever indulged in such cases under the NDPS Act. He never supplied the contraband to accused Mukesh and the statement of co-accused made before the police is of no relevance. On the basis of statement of co-accused, the petitioner cannot be arrested. Moreover, the prosecution story is doubted from all angles. The distance from Bawani Khera to village Kungar is 16 KMs. and it usually takes 35-40 minutes to cover the same, but in the FIR, it has been stated that Mukesh remained standing at the spot throughout which is practically impossible. Nothing is to be recovered from the petitioner and the provisions of Section 42 and 50 of the NDPS Act have not been complied with.

On the other hand, learned State counsel has argued that a huge quantity of wet smack was recovered from co-accused Mukesh, who stated that he purchased the same from the petitioner only.

I have heard learned counsel for the parties.

It is during the interrogation, co-accused Mukesh disclosed that he had purchased the alleged contraband from the petitioner. The recovered quantity of 825 grams of wet smack is a commercial quantity. Co-accused

Mukesh had disclosed that it is the petitioner, who used to bring the smack from other State and the smack recovered from the possession of Mukesh was purchased by him from the petitioner only. Co-accused Mukesh has further given details that the contraband was being brought from Ranchi (Jharkhand) and on 20.07.2018, Mukesh had purchased about 850 grams of wet smack from the petitioner.

Therefore, considering the seriousness of allegations levelled against the petitioner coupled with the fact that a huge quantity of wet smack was recovered in the case, this Court finds that no ground is made out for grant of anticipatory bail to the petitioner.

Accordingly, the present petition, being devoid of any merit, is dismissed.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

September 05, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No