

CRM-M-44069-2018

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

CRM-M-44069-2018

Date of Decision: 15.11.2018

Rakesh Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. D.S.Pheruman, Advocate,
for the petitioner.

Ms. Monika Jalota, DAG, Punjab.

INDERJIT SINGH, J. (Oral)

Petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, 1973 (for brevity, 'Cr.P.C.') for grant of anticipatory bail in case FIR No.104 dated 22.08.2018, registered at Police Station Division No.2, District Pathankot, under Section 15 of the NDPS Act, 1985.

Notice of motion was issued in this case. Learned State counsel has put in appearance on behalf of the respondent-State and contested this petition.

I have heard learned counsel for the petitioner as well as learned State counsel and gone through the record.

From the record, I find that FIR, in the present case, has been registered on the basis of secret information. Co-accused, Rohit has been apprehended while going in car with 102 kgs of poppy husk. The present petitioner has been nominated on the disclosure statement of co-accused

CRM-M-44069-2018

that he and the present petitioner had purchased the poppy husk in Jammu and Kashmir, however, the present petitioner had alighted from the car at Sujanpur.

Learned counsel for the petitioner submits that at the most, the allegation against the petitioner falls under Section 29 of the NDPS Act, 1985 and Section 37 of the NDPS, 1985 does not apply in the present case so far as the petitioner is concerned.

In pursuance of the interim order dated 10.10.2018 passed by this Court, the petitioner has already joined the investigation. He is not required for custodial interrogation. Recovery has already been effected. Therefore, no useful purpose will be served by sending the petitioner to custody.

Keeping in view the facts and circumstances of the present case; without discussing the facts of the case in minute details and without expressing any opinion on the merits of the case, I find merit in this petition and the same is allowed. The order dated 10.10.2018, granting interim bail to the petitioner, is made absolute. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions of Section 438 (2) Cr.P.C.

15.11.2018

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Note:	Whether speaking/reasoned	:	Yes
	Whether reportable	:	No