

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

CRM-M-44352 of 2018.

Decided on:-October 22, 2018.

Dharampal Singh.

.....Petitioner.

Versus

Narcotics Control Bureau, Chandigarh.

.....Respondent.

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

Present:- Mr. Parminder Singh, Advocate
for the petitioner.

Mr. D.D. Sharma, Advocate
for the respondent.

HARI PAL VERMA, J.

The petitioner has filed the present petition under Section 438 Cr.PC for grant of anticipatory bail in case Crime No.29 dated 17.07.2018 under Sections 8, 15, 29, 60 and 61 of the NDPS Act, 1985, Narcotics Control Bureau, Chandigarh Zonal Unit, Chandigarh.

The aforesaid case was registered with the Narcotics Control Bureau, Chandigarh, which is based on secret information. On 16.07.2018 at about 10.30 P.M. a secret information was received that one person, namely, Manpreet Singh, who is a resident of Nissing, Haryana has brought poppy husk (poppy straw) in vehicle No.HR-45C-3213 and on 17.07.2018, he would be coming to Sector 26, Sabzi Mandi, Chandigarh at about 02.30 A.M. and in case a vigil is kept, he can be apprehended. The said information was given in

writing to the Superintendent Kuldeep Sharma, therefore, a team was constituted. Accordingly, on 17.07.2018 at about 0200 A.M. in the night, the team reached the Transport Chowk, Chandigarh from where the trucks for Sabzi Mandi pass. Attempts were made to join independent witness and passers-by, but nobody was ready to join because of the bad weather. Meanwhile, at about 03.00 A.M., the team noticed one truck from the Tribune Chowk on the Western Marg. The truck number was noticed as HR-45C-3213 as mentioned in the secret information. The truck was signalled to stop. The team found that besides the driver, there were two other persons sitting in it. The driver disclosed his name as Manpreet Singh, which matched with the secret information. Similarly, the other persons disclosed their names as Gurjot Singh and Neeraj. Upon this, the truck driver Manpreet Singh and Gurjot Khalsi accepted and told that poppy husk was loaded in the truck inside the bags of onion. Since there was apprehension of vanishing the goods loaded in the truck due to bad weather and rain, the truck could not be unloaded for thorough checking. Therefore, the truck was brought to the NCB office along with the three accused. In the presence of NCB team and Manpreet Singh driver and Gurjot Khalsi, the co-accused, the daily wagers unloaded the truck. The driver Manpreet Singh and Gurjot Khalsi removed the Tripal from the back portion of the truck, wherein Anaar was found seen. The bags of onion and Anaar were removed. After unloading the onion bags, a light black coloured bag was found and Manpreet Singh driver and Gurjot Khalsi disclosed that there was poppy husk in the bags. The total 12 bags of poppy husk were found. The total weight of the bags was found as 299.1 Kgs.

Thus, the case was registered against the accused for the aforesaid offences under the NDPS Act.

Learned counsel for the petitioner has argued that the nominated accused were arrested at the spot and there was no such statement of involvement of any other person. The nominated accused had moved an application for retraction of statement under Section 67 of the NDPS Act on the ground that on 15.07.2018, they were travelling in the truck with Gurjot Singh and were picked up illegally from Asandh Chowk, Haryana. The accused were subjected to physical assault by the officials of NCB and a false case was planted upon them. They had not suffered confessional statement under Section 67 of the NDPS Act. Otherwise, the petitioner is running a dairy known as M/s Pal Dairy for the last about 5-6 years and he is an income tax payee. The petitioner is doing the business of purchase of cows for the purpose of expanding his business of dairy farming. The petitioner, on certain occasions had a telephonic conversation with the nominated accused for transporting the cows/buffalos. Except this, the petitioner has no connection in any unlawful activities. There is no history of involvement of the petitioner in any such case/FIR like the present one. The police reached the house of the petitioner on 18.09.2018 and had taken away the passport, bank passbook and other documents lying in the house of the petitioner in his absence. So far as the mobile conversation of the petitioner with other accused is concerned, the petitioner has already explained the same. The conversation was for the purposes of transportation of cows/buffalos. The nominated accused have

already recorded their statements for retraction under Section 67 of the NDPS Act. Thus, the petitioner has falsely been implicated in the case.

On the other hand, Mr. D.D. Sharma, learned counsel appearing for NCB has argued that the petitioner is involved in smuggling of around 3 quintals of poppy husk, which is a commercial quantity. The statements of co-accused Manpreet and Gurjot were recorded and these persons have specifically named the petitioner. The petitioner had loaded the contraband from Ratlam which was required to be unloaded at Namaste Chowk, Karnal. The co-accused have made a statement wherein the petitioner has also been arraigned as an accused.

I have heard learned counsel for the parties.

A recovery of 299.1 Kgs of poppy husk was effected from the possession of co-accused Manpreet Singh and Gurjot Khalsi in truck No.HR-45C-3213. The case has been registered by the NCB. The other accused, namely, Manpreet Singh and Gurjot Khalsi have made a statement under Section 67 of the NDPS Act that on 15.07.2018, the petitioner had called Manpreet Singh on his mobile phone and directed him to meet at Rahul Punjabi Dhaba situated between Ratlam and Jaora. On the said Dhaba, the petitioner loaded 12 sacks of poppy straw beneath the sacks of onion in the truck bearing registration No.HR-45C-3213 with a further direction to the driver that he would receive the contraband so loaded at Karnal on the particular day.

The plea of learned counsel for the petitioner that co-accused Manpreet Singh and Gurjot Khalsi have retracted from their statements

cannot be a ground for grant of anticipatory bail to the petitioner particularly when there is a mobile conversation of the petitioner with the driver of the truck i.e. co-accused Manpreet Singh. No such material has been brought on record by the petitioner that before having mobile conversation with co-accused Manpreet Singh driver, the petitioner was having any dealing with the said driver in any manner. Therefore, considering the serious allegations levelled against the petitioner, this Court finds that no case 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.

October 22, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No