

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

**CRM-M No.47176 of 2018 (O&M)
Date of Decision: 19.11.2018**

Kashi Ram

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

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

Mr. Tanuj Sharma, Assistant Advocate General, Haryana
for the respondent/State.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition under Section 438 of the Code of Criminal Procedure (Cr.P.C.) has been filed for grant of anticipatory bail to the petitioner in case FIR No.378 dated 21.07.2018, under Sections 15, 16 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) and Sections 411 & 420 of the Indian Penal Code, registered at Police Station Rattia, District Fatehabad.

Learned Counsel for the petitioner has argued that petitioner is neither named in the FIR; nor any recovery has been effected from him.

On the other hand, learned State Counsel, on instructions from ASI Randhir Singh, has opposed the present bail application.

Heard both sides and perused the paper-book.

There is no dispute that contraband in the present case is approximately 09 Quintals and 72 Kgs. of *Poppy Straw*, which was recovered from the abandoned tractor-trolley, owned by co-accused, who undisputedly belongs to Rajasthan. The allegations against the petitioner is that during investigation, one of the co-accused, namely, Baljeet Singh has disclosed that it is the petitioner, who supplied the contraband for a sum of ₹ 14 Lakh.

At this stage, question to be decided is that as to whether pre-arrest bail is to be granted or not. The truthfulness of the allegations in the present case is not to be determined by holding a mini trial at this stage and the material including disclosure statement of co-accused is to be taken into consideration with reference to the gravity of the offence. Pre-arrest bail is a relief which is not to be granted just at the asking of an accused in routine manner, but in exceptional circumstances. Its purpose is not to save them from custodial interrogation even in a grave case, which may result into the extraction of the important information from mouth of the offender. Custodial interrogation of the petitioner in the present case is necessary for proper and effective investigation to know the actual sources of contraband and in case the same is denied to the investigating agency, that will leave many loose ends and loopholes, adversely affecting the administration of justice.

Since recovery is not only commercial, but considerably higher and concededly the petitioner belongs to the area nearby the owner of the tractor in question.

In view of the heavy quantity of recovered contraband and bar of Section 37 of the NDPS Act, no ground for grant of anticipatory bail to the petitioner is made out. Hence, the present petition is dismissed.

The above observations may not be construed as an expression of opinion on merits of the case.

November 19, 2018
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>