

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-48902-2018 (O&M)

Date of Decision:-02.11.2018.

Harmesh Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. A.S. Barnala, Advocate for the petitioner.

P.B. BAJANTHRI, J. (Oral)

In this petition, petitioners are seeking anticipatory bail under the provisions of Section 438 Cr.P.C. in FIR No.455 dated 20.10.2018 under Section 20 of the NDPS Act, registered at Police Station Barnala, District Barnala.

2.) Sessions Court, Barnala while considering petitioner's bail application taken note of the following incident which has happened. Para 5 and 6 of the order dated 25.10.2018 read as under:-

“5. The record of investigation reveals that instant FIR is registered on the letter no.3042 dated 19.10.2018 written by Superintendent, District Jail, Barnala received in police station, City Barnala, inter-alia, alleging that Harmesh Kuamr, Head Warder petti no.2387 was on duty on 19.10.2018 and when he came in Deodi and Gurdev Singh was posted as Deodi Darban and under his supervision, Kesar Singh PASCO employee conducted search of Harmesh Kumar,

recovery of prohibited articles i.e. Zarda, sulfa and papers for preparing cigarettes was effected and in this way, the applicant was negligent in performing his duty and it was recommended to take action against the applicant as per law. On this letter of Superintendent, District Jail, Barnala, instant FIR is registered.

6. No doubt, the alleged recovery has already been effected, but the investigation is still to be completed and it is yet to be find out as to whom the said articles are to be supplied by the applicant. Thus, taking into consideration the allegations levelled and stage of investigation, the custodial interrogation of applicant is required, as if the same is denied to the investigating agency, then it will leave many loose ends which is not desireable. So keeping in view the facts and circumstances of the present case, no ground is made out to give concession of pre-arrest bail to the applicant. Accordingly, instant application for bail is hereby dismissed. Bail application/record be consigned to record room.”

3.) The aforesaid factual aspect relating to seizure of prohibited articles like zarda, sulfa and papers for preparing cigarettes were taken note of. Petitioner being a Superintendent of District Jail, Barnala, there are serious lapses on his part. Thus, petitioner has not made out a case for anticipatory bail.

4.) Accordingly, petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

November 02, 2018.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.