

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

Sr.No.214

**CRM-M-50034-2018
Date of Decision:27.11.2018**

Jasvinder Pal Singh

....petitioner

Versus

State of Punjab

.....respondent

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Swarn Singh Tiwana, Advocate
for the petitioner

Mr.Joginder Pal Ratra, DAG Punjab

ARVIND SINGH SANGWAN, J. :

Prayer in this petition is for grant of anticipatory bail in FIR No.209 dated 01.11.2018 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “NDPS Act”), registered at Police Station Gobindgarh Mandi, District Fatehgarh Sahib.

As per the allegations in the FIR, the complainant-Inspector/SHO, along with his co-officials were present at Bus Stand Gobindgarh, on a patrol duty. At about 7.30 PM, the police party stopped a truck bearing No.CG-04JD-2575, coming from Khanna side, which was being driven by a young man and another person was sitting in the truck. When the police party signalled to stop the truck, the person sitting on conductor side ran away and the driver was apprehended. He disclosed his name as Ashok Kumar. On asking, he informed about the person, who ran away as Harmeet Singh. Thereafter, the investigating officer gave a notice

to Ashok Kumar for search before a Gazetted Officer and when the accused gave his option to be searched before a Gazetted Officer, Deputy Superintendent of Police (DSP), Circle Amloh, was called on telephone. When the DSP reached at the spot, he was informed about the accused person and again the DSP gave a search notice to the accused Ashok Kumar and after he gave the consent, the search of the truck was conducted under the supervision of DSP. The truck was loaded with bags full of onions and five plastic bags were recovered in which 24 Kgs. of poppyhusk was found and on weighing the same, the total contraband recovered was 120 Kgs. Thereafter, the contraband was sealed and the other investigation was carried out by the investigating officer and verified by the DSP. During the investigation, the said Ashok Kumar made a disclosure statement that he is employed as a driver by the petitioner, who is the registered owner of the aforesaid truck and he along with co-accused Harmeet Singh had gone to Indore on 21.10.2018 in the truck owned by the petitioner and on return he loaded onions in the truck on 27.10.2018 for delivery at Khanna and he was in regular contact with the owner i.e. the petitioner on his mobile phone. While leaving from Indore, the petitioner made a phone call to Harmeet Singh that both (Ashok and Harmeet Singh) should bring 5 bags of poppyhusk and Harmeet Singh shall pay the entire amount and the remaining amount will be withdrawn through ATM of the petitioner. In this manner, the contraband was brought from Indore on the asking of the petitioner.

Learned counsel for the petitioner submits that the petitioner is a transporter having more than 15 trucks and is not involved in any case earlier. It is further stated that the petitioner is not named in the FIR and the

only evidence against the petitioner is the disclosure statement of co-accused Harmeet Singh, which is not admissible against him.

Learned counsel for the petitioner submits that no role is attributed to the petitioner in the FIR and the Additional Sessions Judge, Fatehgarh Sahib, has wrongly declined the concession of anticipatory bail to the petitioner.

In reply, learned State counsel has filed an affidavit of Inspector/SHO, Police Station, Mandi Gobindgarh, District Fatehgarh Sahib, dated 27.11.2018, which is taken on record.

In the affidavit, all the details of the investigation carried out by the police are duly described, including the disclosure statement of Ashok Kumar, in which he has specifically named the petitioner and stated that it is the petitioner who made a phone call to the co-accused Harmeet Singh to bring five bags of poppyhusk and directed him to pay the amount and the remaining amount be paid by withdrawing the money from the ATM of the petitioner. Learned State counsel further stated that the petitioner is the registered owner of the truck, which was used in committing the crime and as per the own case of the petitioner, Ashok Kumar was employed as a driver by him. Learned State counsel further stated that in the investigation, call details of co-accused Ashok Kumar, driver was taken and from his mobile No.9988794243, many calls were made to the mobile No.9888601411 of the petitioner, on 29.10.2018 and 30.10.2018 i.e. the period when the co-accused Ashok Kumar and Harmeet Singh, started from Indore, after taking the contraband in their truck.

After hearing learned counsel for the petitioner and the learned State counsel, I do not find any ground to grant the anticipatory bail to the

petitioner, considering the serious allegations.

A huge commercial quantity of 120 Kgs.of poppyhusk was recovered from the truck owned by the petitioner and co-accused Ashok Kumar driver was apprehended at the spot, who was employed by the petitioner. Moreover, in the disclosure statement of Ashok Kumar, it has been revealed that he was in constant touch with the petitioner on his mobile phone and on the asking of the petitioner, co-accused Harmeet Singh brought five bags of contraband from Indore, as the petitioner asked him to pay the amount. Even the call details of accused Ashok Kumar show that the petitioner was in touch with him. Therefore, the evidence so collected by the prosecution suggest the direct implication of the petitioner in commission of offence under Section 15 of the NDPS Act.

In view of the above, I find no ground to grant the anticipatory bail to the petitioner in FIR No.209 dated 01.11.2018 under Section 15 of the NDPS Act, registered at Police Station Gobindgarh Mandi, District Fatehgarh Sahib.

The petition stands dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

27.11.2018

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Whether speaking/reasoned
Whether reportable-

Yes/No.
Yes/No