

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

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**CRM-M-11658-2019(O&M)
Date of Decision : 10.4.2019**

Rahul Soni**....Petitioner****vs.****State of Haryana****....Respondent****CORAM : HON'BLE MR. JUSTICE AJAY TEWARI**

Present: Mr. R.S.Mamli, Advocate for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

AJAY TEWARI, J. (Oral)

This petition has been filed under Section 438 Cr.P.C for grant of anticipatory bail to the petitioner in case FIR No. 0031 dated 22.1.2019 registered under Sections 21 (b) of NDPS Act, 1985 at PS Bhuna, District Fatehabad.

On 20.3.2019 the following order was passed :-

“The petitioner seeks grant of anticipatory bail.

As per allegations, on 22.1.2019 a police party was present for patrolling when it saw a young boy, namely, Raj Kumar coming in the light of the vehicle and on seeing the police vehicle, he tried to run away. Ultimately, he was apprehended and 20 grams of heroin was recovered from him.

Learned DAG Haryana, on instructions from SI Ram Bhagat has stated that on 23.1.2019, that person viz Raj Kumar informed the police that he had procured the narcotic from the petitioner.

In my opinion, the moment this information was given the police should have immediately raided the house and other premises of the petitioner but on my pointed query, it has transpired that first raid was conducted on 13.2.2019 i.e after three weeks. It cannot be lost

sight of that Raj Kumar was arrested with a small quantity of heroin and he was obviously a user and not a dealer. It is inexplicable as to why despite information being with the police that the petitioner was the supplier, no action was taken for a period of three weeks. Even today almost two months after the FIR, there is no evidence with the police against the petitioner apart from that disclosure statement. Let the SP, Fatehabad files his personal affidavit in this regard before the next date of hearing.

Adjourned to 3.4.2019. Till then, arrest of the petitioner shall remain stayed.”

Pursuant to this order, affidavit of Vijay Partap Singh, HPS, Superintendent of Police, Fatehabad has been filed on behalf of respondent in which the activities of the investigating officer for the period in question has been sought to be detailed. I find that there are many gaps. However, it is not for this Court to comment on that factor but in the circumstances of the Case, I do not deem it appropriate to deny him the concession of anticipatory bail.

Resultantly, the petition is allowed. In the event of arrest he will be released on bail by the Investigating Officer subject to the conditions envisaged under Section 438 (2) Cr.P.C. The petitioner is directed to appear before the Investigating Officer on 15.4.2019 and as and when his presence is required.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

10.4.2019
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No