

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

CRM-M No. 22545 of 2019

Date of decision : May 28, 2019

Pargat Singh @ Sheela

..... Petitioner

v.

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. DS Gandhi, Advocate
for the petitioner.

Mrs. Amarjit Kaur Khurana, DAG Punjab

Ajay Tewari, J (Oral)

The petitioner seeks grant of anticipatory bail in case FIR No.80, dated 19.10.2015, registered under Sections 22/61 of the NDPS Act, at Police Station Islamabad, District Amritsar.

On the last date, the following order was passed :-

“ The petitioner seeks grant of anticipatory bail. As per the FIR, one ASI Kewal Singh, along with the police party, was going on patrol duty when they saw two young men coming on a motorcycle who, after seeing the police party, got perplexed and were about to turn back when the police party apprehended them, and from two polythene bags which they were trying to throw away, contraband was recovered. ASI Kewal Singh thereupon arrested the petitioner and the co-accused, took a sample of 10 grams from each of the bag, stamped them and then sent a ruqa to the police station for registration of the FIR. Thereafter, the petitioner was released on interim bail awaiting the FSL report. After the FSL report was filed, challan was presented. Notice was issued to the

petitioner and his bail application having been dismissed by the Court below, he is before this Court.

Counsel for the petitioner has argued that ASI Kewal Singh was adhoc ORP and was not an empowered Officer as envisaged in Section 42 of the NDPS Act. As per him, even if this chance recovery had taken place, it was incumbent upon ASI Kewal Singh to have informed the empowered Officer, and further proceedings under the NDPS Act could have only been taken by such empowered Officer and this unauthorized Officer could not have completed all the necessary formalities.

Learned DAG Punjab, on instructions from ASI Santokh Singh, seeks a short adjournment to ascertain whether at that time ASI Kewal Singh No.1333 was an unauthorized Officer or not.

Adjourned to 23.5.2019.”

Learned DAG Punjab, on instructions from ASI Charanjit Singh, has fairly accepted that at that time ASI Kewal Singh No.1333 was not an authorized officer.

In this view of the matter, I do not deem it appropriate to deny the concession of anticipatory bail to the petitioner. Resultantly, this petition is allowed and it is directed that in the event of his arrest, the petitioner shall be released on anticipatory bail by the Investigating Officer to his satisfaction subject to the compliance of the provisions as contained in Section 438(2) of the Cr.P.C.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

May 28, 2019
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No