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

CRM-M-27712 of 2019

Date of decision: July 09, 2019

Gurmej Singh @ Happy

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. S.S. Sarwara, Advocate for the petitioner.

Mr. Arun Beniwal, DAG Haryana.

MAHABIR SINGH SINDHU, J (Oral)

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of anticipatory bail to the petitioner, in FIR No.74 dated 12.03.2019, under Sections 21-61-85 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station Parao, District Ambala.

As per prosecution case, petitioner has not been apprehended at the spot, rather nominated as an accused on the basis of disclosure statement made by main accused, namely Nitish Kumar.

It is contended by learned counsel for the petitioner that he has neither been named in the FIR; nor any recovery has been effected from him and he has been nominated as an accused on the basis of disclosure statement made by main accused, namely Nitish Kumar. It

is also contended that co-accused of the petitioner, namely Gaurav Chhatri @ Amit, who was also nominated as an accused on the basis of disclosure statement made by said accused, namely Nitish Kumar, has already been granted the concession of interim bail by this Court in CRM-M-26967 of 2019 vide order dated 17.06.2019.

On the other hand, learned State counsel, on instructions from Sub Inspector Jitender, has opposed the prayer made by the petitioner and submitted that petitioner is already facing criminal case under Section 302 IPC apart from the present one.

The above factual position is duly acknowledged by learned counsel for the petitioner, but has submitted that he is on bail in the case under Section 302 IPC.

Heard both sides and perused the paper-book.

Contraband recovered in the present case from the main accused is 340 grams of heroin which was alleged to be delivered to the petitioner. Paper-book reveals that some Nigerian nationals are also involved in this case, therefore, thorough investigation is necessary to unearth the racket and their *modus-operandi* and as such custodial interrogation of the petitioner is very much required. Since the petitioner is already facing case under Section 302 IPC, therefore, he has a criminal background; consequently, this Court is not inclined to grant him the concession of pre-arrest bail.

In view of heavy quantity of contraband recovered from co-accused and to ascertain the role of the petitioner as well as bar under Section 37 NDPS Act, no ground for grant of anticipatory bail to

the petitioner, is made out.

Petition stands dismissed.

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

(MAHABIR SINGH SINDHU)
JUDGE

July 09, 2019

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Whether speaking/ reasoned: **Yes**

Whether Reportable: **Yes**