

PUNJAB AND HARYANA HIGH COURT

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CRM-M-35550-2019 (O&M)

Date of decision : 22.10.2019

Rajiv Kumar @ Kaka

Petitioner.....

V/s

State of Punjab

Respondent.....

CORAM : HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Munish Puri, Advocate for the petitioner.

Mr. Jagmohan Ghumman, D.A.G., Punjab.

ARUN KUMAR TYAGI, J. (Oral)

Prayer in the petition is for grant of anticipatory bail in case FIR No.46 dated 27.07.2019 registered under Section 15 of the NDPS Act, 1985 at Police Station Sadar Pathankot.

While granting interim bail to the petitioner, following order was passed by this Court on 06.09.2019 :-

“Prayer in this petition is for grant of anticipatory bail in FIR No.46 dated 27.07.2019 under Section 15 of NDPS Act, registered at Police Station Sadar Pathankot.

Learned counsel for the petitioner submits that the petitioner is not involved in FIR No.208 dated 25.12.2018 registered under Sections 15/61/85 of NDPS Act, at Police Station Sadar Pathankot and this fact is wrongly noticed in the order dated 05.08.2019 passed by the Judge, Special Court, Pathankot. It is further submitted that in earlier two FIRs pertaining to the year 2008 and 2009, the petitioner already stands acquitted.

Learned counsel for the petitioner further submits that as per allegations in the FIR, registered at the instance of ASI Chamba Singh, the police party saw a person carrying a plastic bag and on seeing the police party, he had thrown it and ran away and could not be apprehended. It is further submitted that the said person was known to the complainant and he was petitioner Rajiv Kumar @ Kaka. Thereafter, on search of the bag, 12.200 kg of poppy husk was recovered. Learned counsel has further submitted that recovery has already been effected and it will be a debatable issue whether the petitioner was ever in

conscious possession of the contraband.

Notice of motion for 22.10.2019.

In the meantime, the petitioner is directed to appear before the Investigating Officer within a period of 10 days to join investigation and he shall be released on interim bail on furnishing bail/surety bonds subject to the following conditions:-

1. He shall make himself available for interrogation by a police officer as and when required;
2. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
3. He shall not leave India without previous permission of the Court.”

Learned Counsel for the petitioner submits that in pursuance of the aforesaid order, petitioner has joined the investigation and is not required for any further investigation.

Mr. Jagmohan Ghumman, D.A.G., Punjab, on instructions from ASI Rajesh Kumar, has submitted that the petitioner joined investigation and his custodial investigation is not required in the case.

In view of the above, this petition is allowed and the interim bail granted to the petitioner vide order dated 06.09.2019 is made absolute subject to the conditions envisaged under Section 438 (2) Cr.P.C.

(ARUN KUMAR TYAGI)
JUDGE

22.10.2019

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Whether speaking/reasoned	Yes
Whether reportable	No