

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

**CRM-M-39083-2019
Date of decision: 30.09.2019**

Hardev Singh @ Dev

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. A. S. Brar, Advocate
for the petitioner.

Mr. Jagmohan Ghuman, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition, filed under Section 438 Cr.P.C., is for grant of anticipatory bail to the petitioner in FIR No. 159 dated 07.08.2019, registered under Sections 22 and 29 (added later on) of the NDPS Act, 1985 at Police Station City South Moga, District Moga.

Learned counsel for the petitioner submits that as per the allegations in the FIR, the police party headed by ASI Nahar Singh, which was on patrol duty, apprehended two young persons and thereafter, information was sent to the police station and Inspector Surjit Singh reached at the spot. Thereafter, he inquired about the names of the aforesaid persons and gave them notice to be searched either before a Gazetted Officer or a Magistrate. On this, one of the co-accused, namely Omkar @ Babu, stated that he has faith on Inspector Surjit Singh and he can search him and thereafter, he prepared a consent memo which was jointly signed by accused Omkar @ Babu and Brahmdev @ Moglis. Thereafter, some intoxicant powder was recovered from the polythene bag which was being carried out

by accused Omkar @ Babu.

Learned counsel for the petitioner further submits that later on, on the disclosure of one of the co-accused, the name of the petitioner surfaced in the case.

Learned counsel for the petitioner further submits that aforesaid Inspector Surjit Singh, posted at Police Station City South Moga, has involved some other persons in false cases and qua them, some case have already been filed before this Court and, therefore, the petitioner too has been falsely implicated.

Learned counsel for the petitioner further submits that even on 13.08.2019, the entire family members of the petitioners were picked up by the police party, however, they were released as wife of the petitioner was pregnant and her condition deteriorated.

In pursuance to the order dated 18.09.2019, directing the SSP, Moga to affidavit regarding the manner in which the investigation has been conducted in the present case and about the cases filed against Inspector Surjit Singh, affidavit of SSP, Moga is filed in Court today. In the affidavit, it is stated that three persons have filed different cases against Inspector Surjit Singh levelling the allegations of harassment and humiliation, the details of which have been given in the affidavit.

It is further stated in the affidavit that DSP (I), Moga was directed to conduct an enquiry about the investigation of this case and finding that the same was not conducted in a proper manner as Inspector Surjit Singh has given a joint notice to the accused persons and has not followed the provisions of Section 50 of the NDPS Act, a departmental proceeding has been initiated against him. A copy of the order, passed by

the DSP(I), Moga dated 23.09.2019, attached with affidavit.

In view of the above, without making any comment on the merits of the case, the present petition is allowed and the petitioner is granted concession of anticipatory bail, subject to the conditions envisaged under Section 438(2) Cr.P.C.

It will be open for the Investigating Officer to issue a notice in writing to the petitioner calling upon him to join investigation in order to complete the investigation and submit the report under Section 173 Cr.P.C.

30.09.2019
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No