

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

212

CRM-M-46527-2019

Date of decision : 05.11.2019

BAKHTOUR SINGH @ BITTU SHIKARI

Petitioner.....

VERSUS

STATE OF PUNJAB

Respondent.....

CORAM : HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Karanjeet Singh Brar, Advocate for the petitioner.

Mr. Sandeep Singh Deol, D.A.G., Punjab

ARUN KUMAR TYAGI, J. (Oral)

Prayer in the petition is for grant of anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 (for short “the Cr.P.C.”) to the petitioner in case FIR No.256 dated 02.10.2019 registered under Sections 15, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”) at Police Station City Faridkot.

Notice of motion was issued vide order dated 01.11.2019. Learned State Counsel has appeared on behalf of the respondent-State and has opposed the bail application. However, no reply has been filed by the State.

I have heard learned Counsel for the petitioner as well as learned State Counsel and have gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner was not arrested on the spot. No recovery was made from his conscious possession. Recovery of 30 Kgs of poppy husk was allegedly made by the police party from the Swift Dzire car. The car in question does not belong to the petitioner and the petitioner has no concern whatsoever with the same. The petitioner has been arraigned on the basis of secret information only and there is nothing cogent at this stage to connect the petitioner with the offence. The petitioner is ready to join

investigation. No recovery is to be made from his possession and custodial interrogation is not required. The petitioner is not involved in any other case under the NDPS Act.

Learned State Counsel has vehemently opposed the bail application on the ground that the petitioner is to be interrogated about supplier of the poppy husk. However, learned State Counsel has conceded that the case involves recovery of non commercial quantity and rigors of Section 37 (b) of the NDPS Act are not applicable and that there is no other case against the petitioner.

In view of the facts and circumstances of the case and also the fact that the petitioner can be interrogated about alleged supplier of the poppy husk by joining him in investigation, but without expressing any opinion on the merits of the case, the petition is allowed. The petitioner is directed to join the investigation as and when called upon to do so and in the event of his arrest, the petitioner shall be released on bail by the arresting officer/investigating officer on furnishing of the bail bonds by the petitioner to the satisfaction of the arresting officer/investigating officer. The petitioner shall comply with the conditions enumerated in Section 438 (2) of the Cr.P.C. failing which the petitioner will not be entitled to the protection of anticipatory bail granted to him.

(ARUN KUMAR TYAGI)
JUDGE

05.11.2019
Kavneet Singh

Whether speaking/reasoned	Yes
Whether reportable	No