

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

Decided on: 16.11.2019

1. CRM-M No.47765 of 2019

Hans Raj Singh @ Hans Raj

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M No.46971 of 2019

Deepak Kumar

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Prateek Pandit, Advocate
for the petitioner (in CRM-M-47765-2019)

Mr. Divjyot S. Sandhu, Advocate
for the petitioner (in CRM-M-46971-2019)

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners namely Hans Raj Singh @ Hans Raj and Deepak Kumar Kumar, pray for grant of anticipatory bail under Section 438 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.126 dated 01.08.2019, for offence punishable under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act (in short 'the NDPS Act') registered at Police Station Sadar Kapurthala, District Kapurthala.

Counsel for the petitioner – Deepak Kumar Kumar (in CRM-M No.46971 of 2019) has argued that as per the allegations in the

FIR, on 01.08.2019, a car i20 was parked near a police barrier and Constable Vikram identified the persons sitting in that car as Rajbir Singh, Sukhjiwan Singh sons of Balwant Singh resident of Latianwal, Lovepreet Singh @ Lovely son of Gurcharan Singh resident of Shanchan and Hans Raj (co-petitioner) son of Dara Singh, Dilbag Singh son of Balwinder Singh, resident of Latianwal Police Station Sultanpur Lodhi and on seeing the police party, they got perplexed and ran away from the spot and the said car was driven by Rajbir Singh. Thereafter, a person was got down from an Auto and he was apprehended by the police and he informed his name as Kapil Arora son of Manohar Lal Arora resident of New Delhi and on suspicion, he was apprehended and then, an information was sent to the Police Station for sending an Investigating Officer. Upon this, the second Investigating Officer came at the spot and upon verification again, found that the name of the person apprehended is Kapil Arora. Thereafter, an information was sent to the Deputy Superintendent of Police, Sub-Division Kapurthala, being a Gazetted Officer for conducting the search and in his presence, 05 Kgs of Heroin was recovered from Kapil Arora.

Counsel for the petitioner has further submitted that the petitioner is named in the FIR only because he is the brother-in-law of Kapil Arora.

Counsel for the second petitioner – Hans Raj Singh @ Hans Raj (in CRM-M No.47765 of 2019) has argued that he is not involved in any other case, though, as per the FIR, it is stated that Constable Vikram has given the name of 05 occupants of the car along with their parentage and their place of residence, however, the car

number is not given though, it is stated that the car was parked near the police barrier. It is further argued that no recovery was effected from the petitioner – Hans Raj Singh @ Hans Raj as he was never arrested from the spot and as per the own case of the prosecution, the recovery was effected from Kapil Arora.

In reply, counsel for the State, on instructions from Inspector Balwinder Pal, has submitted that during the investigation, Kapil Arora suffered a disclosure statement in which it is stated that on three earlier occasions, he has brought narcotics from Delhi on the asking of Deepak Kumar.

Counsel for the State has also submitted that as per the call details of Kapil Arora and the petitioner – Deepak Kumar, it is found that they were interacting with each other from their respective mobile number and as per the call location, Deepak Kumar was present in the State of Punjab. It is also argued that his petition, the petitioner – Deepak Kumar has nowhere stated that he is not involved in any other case and therefore, the custodial investigation of the petitioner – Deepak Kumar is required as the recovery is of 05 Kgs of Heroin which falls in the commercial quantity and since the co-accused Kapil Arora has stated that on three earlier occasions, he was sent to Punjab by the petitioner Deepak Kumar, this fact needs to be interrogated.

Counsel for the State has further argued that the petitioner – Hans Raj Singh @ Hans Raj though was named by Constable Vikram in the FIR yet he was not named in the disclosure statement of Kapil Arora. It is also submitted that the petitioner – Hans Raj Singh @ Hans Raj is not involved in any other case under the NDPS Act.

After hearing the counsel for the parties, I find no ground to grant anticipatory bail to the petitioner – Deepak Kumar, considering the serious allegations against him. Accordingly, the petition i.e. CRM-M No.46971 of 2019 is dismissed. However, the another petition i.e. CRM-M No.47765 of 2019 is allowed and the petitioner – Hans Raj Singh @ Hans Raj, is directed to appear before the Investigating Officer on or before 16.12.2019 at 10:00 am sharp or on any other date or time fixed by him, 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.*

However, it will be open for the Investigating Officer to issue an advance notice in writing to the petitioner – Hans Raj Singh @ Hans Raj in case he is required for further investigation after joining the same.

(ARVIND SINGH SANGWAN)
JUDGE

16.11.2019
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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No