

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

CRM-M No.57299 of 2018 (O&M)

Date of decision : 10.01.2019

Sooraj

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Ms. Arti Kaur, Advocate
for the petitioner.

Ms.Amarjit Kaur Khurana, DAG, Punjab.

AJAY TEWARI, J. (Oral)

This is a petition for grant of anticipatory bail to the petitioner under Section 438 Cr.P.C. in case FIR No.131, dated 30.11.2018 registered under Section 21 of the NDPS Act, 1985 at Police Station Sadar Banga, Distt. SBS Nagar.

As per the allegations, the petitioner was riding pillion on a scooter when they encountered a police party they tried to escape. The police party was suspicious and stopped them for checking. At this the petitioner ran away. The police recovered 16 grams of heroin from the pocket of the other person.

Counsel for the petitioner has argued that the petitioner was not arrested from the spot. To this the learned Deputy Advocate General on instructions from ASI Balwinder Singh has replied by stating that the phone

establishes his presence.

In my considered opinion, the mere fact that the phone of the petitioner was in the scooter would not definitively establish his presence. Moreover in the disclosure statement suffered by the co-accused there is no assertion that the petitioner also had any heroin in his possession. The recovery is also slightly more than small quantity. It is also admitted that there is no other case pending against the petitioner.

In these circumstances, I do not deem it appropriate to deny anticipatory bail to the petitioner.

Resultantly, the petition is allowed. In the event of arrest of the petitioner, he shall be released on bail to the satisfaction of the Investigating Officer subject to the conditions envisaged under Section 438(2) Cr.P.C.

The petitioner is directed to appear before the investigating officer as and when required by the I.O. On his appearance the I.O. shall release him on bail to his satisfaction subject to the conditions envisaged under Section 438 (2) Cr.P.C. In case the petitioner does not appear before the investigating officer in the aforesaid manner the present petition would be deemed to have been dismissed.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

10.01.2019

Pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No