

**Sr.No.215**

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

**CRM-M-7194-2020  
Date of decision:25.02.2020**

**Taiyab Khan**

**... Petitioner(s)**

**versus**

**State of Haryana**

**... Respondent (s)**

**Coram: Hon'ble Mr. Justice Jasgurpreet Singh Puri**

**Present:** Mr. Sanjeev Kumar Bawa, Advocate  
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

**Jasgurpreet Singh Puri, J.(Oral)**

Present petition has been filed under Section 438 Cr.P.C for issuance of direction to the Illaqa Magistrate / S.H.O. / Investigation Officer to release the petitioner on bail in the event of his arrest on anticipatory bail in FIR No.140, dated 30.10.2019 registered under Section 20 of Narcotic Drugs and Psychotropic Substances Act, 1985 (later on Section 61 of NDPS Act added) at Police Station Jhansa, District Kurukshetra.

Learned counsel for the petitioner has submitted that in the present case petitioner has been wrongly roped in the present FIR and it is a false and frivolous case against the petitioner because the petitioner was not apprehended on the spot and even the vehicle which was recovered does not belong to the petitioner. He has further submitted that there was a rivalry between the petitioner and uncle of the person apprehended and therefore, the present case has been registered against him. Learned counsel for the petitioner has further submitted that there is no other case pending against the petitioner either under the NDPS Act or any other act, therefore, prayed

for grant of the anticipatory bail.

Notice in this case was issued to the State of Haryana vide order dated 18.02.2020 with a direction to the State to get instructions in this case.

Learned State counsel on instructions has submitted that in the present case there were three persons namely, Jamil, Taiyab Khan and Shahid were travelling in a creta car. On the basis of the information of the villagers police raided the car and from there the allegedly Jamil and Taiyab khan fled away from the spot and Shahid was ultimately nabbed on the spot. The recovery which was made from the vehicle was 40.700 kgs of ganja which is not only a commercial quantity but also a huge quantity. Learned State counsel has further submitted that they have investigated the matter in detail and during the investigation it has been found that the petitioner namely Taiyab khan was on the spot. This information according to learned counsel for the petitioner was gathered on the basis of the tallying of the mobile phone of the Taiyab Khan with the mobile tower which shows that the said petitioner was at that place of occurrence within the range of tower. Therefore, according to learned counsel for the State the averments which have been made by learned counsel for the petitioner that he has been wrongly roped in the present FIR would prove to be false. He has further submitted that matter is very serious in nature because there is huge quantity of contraband and therefore, it is necessary that the petitioner should be investigated while in custody.

I have heard the learned counsel for the parties and perused the available record.

In the present case, out of three persons who were allegedly

present at the spot along with the contraband of 40.700 kgms of ganja, Jamil and Taiyab Khan have not been apprehended whereas Shahid was apprehended on the spot. The stand taken by learned State counsel on instructions that his mobile was matching with the tower where the occurrence has taken place and the prayer of learned State counsel that the matter is serious in nature and it would require custodial investigation deserves to be considered in the light of the seriousness of the present case.

It is a settled law that anticipatory bail is a matter of extraordinary concession and it should be exercised with due care and caution. In view of the facts and circumstances of the present case, I do not find it a fit case to grant anticipatory bail to the petitioner and therefore, in view of the totality of the circumstances, the present petition is dismissed.

However, nothing stated hereinabove, shall be construed to be an expression on the merits of the case.

**25<sup>th</sup> February, 2020**

Shivani Kaushik

**[JASGURPREET SINGH PURI]  
JUDGE**

*Whether speaking/reasoned*      *Yes/No*

*Whether Reportable*              *Yes/No*