

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

206

**CRM-M-16452-2020
Date of decision: 19.08.2020**

Honey @ Mehar Khan	Versus	Petitioner
State of Punjab		Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Imran Farooqi, Advocate
for the petitioner.

Mr. Harbir Sandhu, Asstt.A.G., Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

The case has been taken up for hearing through video conferencing.

The petitioner has filed this (first) petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C") for grant of anticipatory bail in case FIR No.85 dated 27.05.2020 registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") at Police Station City-1, Malerkotla, District Sangrur.

The facts relevant for disposal of the petition are that on 27.05.2020, police party headed by ASI Harjit Singh, Anti Narcotic/Special Cell, Malerkotla was present at Grain Market, Malerkotla for patrolling. Secret information was received that accused Imran @ Pappu, who was habitual of selling intoxicant tablets by bringing the same from Honey (petitioner), is coming on his motorcycle for selling the same to his customers and will reach Bus Stand Malerkota, near Thandi Sadak through Telian Bazar. As the secret information was reliable above said FIR was registered on written

information sent by ASI Harjit Singh. Accused Imran @ Pappu was apprehended by Police Party headed by SI Gurmeet Singh and on search 1000 intoxicant tablets labelled as Clovidol-100 SR were recovered from his possession.

While issuing notice of motion on 01.07.2020, this Court had granted the interim anticipatory bail to the petitioner with direction to join the investigation.

Learned State counsel has appeared on behalf of the respondent-State and opposed the petition.

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 falsely named in the FIR on the basis of secret information. He was not arrested at the spot and no recovery was effected from him. The petitioner has no connection with his co-accused Imran @ Pappu from whom alleged recovery was made. Provisions of Section 37(1)(b) of the NDPS Act are not applicable qua the petitioner. The petitioner has joined the investigation. Nothing is to be recovered from him and his custodial interrogation is not required.

Learned State counsel, on instructions from SI Gurmeet Singh, has submitted that in compliance with order dated 01.07.2020 passed by this Court, the petitioner has joined the investigation and that his custodial interrogation is not required for effecting any recovery. Learned State counsel has also conceded that the petitioner is not involved in any other case under the NDPS Act.

In view of the facts and circumstances of the case, nature

Section 37(1)(b) of the NDPS Act qua the petitioner, the fact that the petitioner is not involved in any other case under the NDPS Act and also the fact that custodial interrogation of the petitioner is not required in the case but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves the concession of anticipatory bail.

Accordingly, the petition is allowed and order dated 01.07.2020 granting interim bail to the petitioner is made absolute. However, the petitioner shall join the investigation again if and as and when called upon to do so and shall abide by the conditions enumerated in Section 438 (2) of the Cr.P.C., failing which the protection of anticipatory bail order shall not be available to him.

19.08.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No