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

**CRM-M No.29166 of 2020(O&M)
Date of Decision: 13.10.2020**

Aman Singh

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Nandan Jindal, Advocate
for the petitioner.

Mr. Ramdeep Partap Singh, DAG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

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

Petitioner seeks grant of anticipatory bail in case bearing FIR No.6 dated 14.01.2018 registered under Sections 20, 25, 29, 61 of NDPS Act at Police Station Mehal Kalan, District Barnala.

Keeping in view the date of registration of present FIR, a query was put to learned State counsel as to whether the petitioner was ever declared as proclaimed offender in the present case or not.

Learned State counsel on instructions from ASI Sukhwinder Singh states that the petitioner was never declared as proclaimed offender in the present case.

Perusal of the FIR would show that five accused were nominated on the basis of secret information. They were arrested on 14.01.2018, when they were traveling in a truck. 35 bags of *ganja* each containing 26 kgs i.e. total 910 kgs *ganja* were recovered from the truck without any valid permit or licence.

Learned counsel for the petitioner submits that the petitioner was not named in the FIR, nor any disclosure statement of co-accused was ever recorded in the context of complicity of the petitioner in any manner. He was never nominated by any co-accused in any disclosure statement. It is only on the basis of some *zimni* recorded by the Investigating Officer and alleged statement of one Nirmal Singh under Section 161 Cr.P.C, the petitioner came to be implicated in the present case. There is no material on record to connect the culpability of the petitioner with that of the offence in question, except solitary statement of one Nirmal Singh under Section 161 Cr.P.C. Nirmal Singh has not been cited as prosecution witness, nor has been examined by the prosecution. The case has already reached the stage of defence evidence.

The factual position of the case could not be disputed by the learned State counsel, however, he submits that the petitioner is wanting in the present case as an accused since long.

Admittedly, the petitioner was not declared as proclaimed offender in respect of FIR which was lodged on 14.01.2018. The accused were arrested on 14.01.2018 itself and they never nominated the petitioner as accused in any manner.

In view of aforesaid, the petition is allowed and petitioner is directed to appear before the SHO/Investigating Officer to join investigation on 17.10.2020 at 11.00 AM and in the event of his arrest, he shall be released on anticipatory bail on his furnishing adequate bail bonds/surety bonds to the satisfaction of SHO/Investigating Agency subject to the following conditions as envisaged under Section 438(2) Cr.P.C:-

- i) that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required;
- ii) that the petitioner 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;

- iii) that the petitioner shall not leave the country, without prior permission of the Court and shall surrender his passport, if any.

13.10.2020
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(RAJ MOHAN SINGH)
JUDGE

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