

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

206

**CRM-M-50080-2019
Date of decision: 29.01.2020**

Jatinder Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Yaseen Sethi, Advocate for
Mr. Varinder Basa, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, D.A.G., Punjab
for the respondent.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C") for grant of anticipatory bail in case FIR No.118 dated 14.10.2019 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") at Police Station Sujampur, District Pathankot to which Sections 29 and 29A of the NDPS Act were added lateron.

While issuing notice of motion on 26.11.2019, 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 bail application.

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 not named in the FIR and was falsely implicated in the present case on the basis of disclosure statement of his co-accused. Provisions of Section 37(1)(b) of the NDPS Act are not applicable qua the petitioner. The petitioner is not involved in any other case under the NDPS Act. The petitioner has joined the investigation. Nothing is to be recovered from him and his custodial interrogation is not required. The petitioner has not committed and will not commit any offence under the NDPS Act in future.

Learned State counsel has acknowledged that in compliance with order dated 26.11.2019 passed by this Court, the petitioner has joined the investigation and submitted that custodial interrogation of the petitioner who is not involved in any other case under the NDPS Act is not required for effecting any recovery.

In the present case, the conditions of Section 37(1)(b) of the NDPS Act stand satisfied by due implication as in view of nature of evidence there is reasonable ground to believe that the petitioner has not committed the offence and in view of his undertaking and non-involvement in any other case, the petitioner is not likely to commit any such offence in future

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

Therefore, the petition is allowed and order dated 26.11.2019 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.

29.01.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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