

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

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**CRM-M-51687-2019
Date of decision: 04.02.2020**

Kikkar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Ranbir Singh Sekhon, Advocate
for the petitioner.

Mr. Arun Kaundal, DAG, Punjab
for respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

Prayer in this petition filed under Section 438 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C') is for grant of anticipatory bail to the petitioner in case FIR No.25 dated 08.04.2019 registered under Section 61 of the Punjab Excise Act, 1914 at Police Station Ghall Khurd, District Ferozepur to which Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS') was added lateron.

As per the prosecution version, on 08.04.2019 police party headed by SI Pritam Singh raided the house of the petitioner on the basis of secret information. On seeing the police party the petitioner ran away from the spot. On search 300 litres lahan and one kilogram poppy husk were recovered from his house.

Vide order dated 05.12..2019 passed by this Court, the petitioner was granted interim anticipatory bail 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 gone through the record.

Learned counsel for the petitioner has submitted that the petitioner was falsely implicated in the case. He was not arrested on the spot. Provisions of Section 100 of the Cr.P.C. and Section 42 of the NDPS Act were not complied with. No independent witness was joined at the time of alleged recovery. The petitioner has joined the investigation and his custodial interrogation is not required.

Learned State Counsel has, on instructions from Sh. Gurjit Singh, HC present in the Court, acknowledged that in compliance with order dated 05.12.2019 passed by this Court, the petitioner has joined the investigation and submitted that his custodial interrogation is not required in the case.

In view of the facts and circumstances of the case, the nature of accusation and material against the petitioner, non-applicability of Section 37(1)(b) of 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.

Therefore, the petition is allowed and order dated 05.12..2019 granting interim bail to the petitioner is made absolute. However, the petitioner shall join the investigation 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.

04.02.2020

(ARUN KUMAR TYAGI)

Rajeev (rvs)

JUDGE

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