

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-53306-2019 (O&M)

Date of Decision:-15.1.2020

Vakil

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vaibhav Sharma, Advocate for
Mr. Sanjiv Gupta, Advocate for the petitioner.

Mr. Ashok Singh Choudhary, Addl. Advocate General, Haryana,
assisted by ASI Bhupinder Singh.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.198 dated 22.8.2019 at Police Station Sadar Tohana, District Fatehabad under Section 15 of Narcotic Drugs and Psychotropic Substances Act, 1985.
2. The case of the prosecution is that on 22.8.2019 when the police party was patrolling, then they noticed the petitioner Vakil standing in front of a main gate while carrying two black coloured plastic bags and was trying to open the shutter. However, upon noticing the police party, he lost his balance. The vehicle, in which the police officials were sitting, could not negotiate the turn and in the meantime the petitioner Vakil, while leaving the bags in question, made good his escape from the spot. It is further stated therein that while running away, Vakil dropped his mobile phone, which was taken into possession by the police. Upon checking the bags thrown by the aforesaid

Vakil, the same were found to contain 'poppy husk' weighing 20.670 kilograms and 16.300 kilograms, respectively, total weighing 36.970 kilograms.

3. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that the story of the prosecution is unbelievable as to how the petitioner managed to escape in the presence of the police party.
4. Opposing the petition, the learned State counsel has submitted that the petitioner is a habitual offender and is involved in seven other cases registered in respect of offences under Indian Penal Code. It has, however, been informed that the petitioner already stands acquitted in five of the said cases, while two are still pending.
5. I have considered rival submissions addressed before this Court.
6. Given the fact that the petitioner was not arrested at the spot, the factum of recovery is a matter which would require to be established and would be debatable. The petitioner is stated to have joined investigation. In these circumstances, custodial interrogation is not warranted. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 13.12.2019 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

15.1.2020

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No