

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

207

**CRM-M-54851-2019
Date of decision : 14.02.2020**

Pawan Kumar	Versus	Petitioner
State of Punjab		Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Randeep Singh Waraich, Advocate
for the petitioner.

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

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed the present 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.253 dated 14.11.2019 registered under Sections 22 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Jagraon, District Ludhiana (Rural).

As per the prosecution version, ASI Gursewak Singh along with other police officials was patrolling in private vehicle near G.T. Road, Ludhiana Moga Bus Stand Village Chowkiman. Secret informer gave information that accused-Lakhbir Singh @ Lakhi and Balwinder Singh @ Binder, who are doing business of sale of intoxicant tablets since a long time, are coming in Alto car bearing registration number DL-09C-5144 from main G.T. Road, Ludhiana to Jagraon for supplying intoxicant tablets. On nakabandi Lakhbir Singh @ Lakhi and Balwinder Singh were apprehend and during search 10,000 intoxicant tablets Tramadol Hydrochloride and amount of Rs.80,000/- as drug money were recovered from the car. On the basis of Ruqa sent to SHO, Police Station Jagraon, District Ludhiana (Rural) the above-said FIR was registered. During investigation, the petitioner was implicated by the co-accused in the disclosure statements.

Vide order dated 19.12.2019 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 and 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 has been falsely implicated on the basis of disclosure statement of co-accused. The petitioner was not apprehended on the spot and nothing was recovered from him. Rigors of Section 37(1)(b) of the NDPS 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, has acknowledged that in compliance with order dated 19.12.2019 passed by this Court, the petitioner has joined the investigation and submitted that his custodial interrogation is not required for effecting any recovery.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner, non-applicability of Section 37(1)(b) of the NDPS Act qua the petitioner and particularly 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 19.12.2019 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.

14.02.2020

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(ARUN KUMAR TYAGI)
JUDGE

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