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

CRM-M No.1462 of 2021

Date of Decision:07.09.2021

Mandeep @ Mippa

.....Petitioner

Vs

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr.Amit Chaudhary, Advocate
for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

RAJ MOHAN SINGH, J. (Oral)

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

Petitioner seeks grant of anticipatory bail under Section 438 Cr.P.C in case bearing FIR No.389 dated 17.12.2020 registered under Sections 15, 27(a), 61 and 85 of Narcotic Drugs and Psychotropic Substances Act, at Police Station Bhuna, District Fatehabad.

Notice of motion was issued on 13.01.2021. Arrest of the petitioner was stayed on the premise that the petitioner was nominated on the basis of disclosure statement of co-accused Sonu and Sanjay, from whom 100 kgs and 500 gms of poppy husk was allegedly recovered. Allegation against the petitioner

is that he had supplied the same to the co-accused for consideration and thereafter, he had fled away from the spot on seeing the Police party. The vehicle in which he had ran away from the spot was ultimately became imbalanced and went in the agricultural field. The petitioner had left the vehicle in the field itself. Thereafter, vide order dated 04.03.2021, petitioner was directed to join the investigation and co-operate with the process of investigation. Order dated 04.03.2021 reads as under:-

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

Notice of motion was issued on 13.01.2021 and arrest of the petitioner was also stayed. Petitioner was nominated on the basis of disclosure statement of co-accused Sonu. Allegation is that the petitioner had supplied poppy husk to the co-accused for a sum of Rs.1 lac and thereafter, he fled away from the spot on seeing the police party. One Aman is owner of the Bolero. The vehicle became imbalanced and thereafter, it went in the agricultural field. Allegation against the petitioner is that he ran away from the spot leaving behind the Bolero vehicle. According to the reply filed by the State, petitioner has mobile Nos. 98139-15010 and 72065-40040. There was a call from mobile No. 98139-15010 to the mobile of Sonu i.e. 70823-12029 at 10.39 PM on 16.12.2020. Location of the co-accused was at Uklana. Second call from the mobile of the petitioner was made to mobile No.72065-40040 i.e. Mobile of the petitioner himself at 01.38 AM. Location of the said mobile is found to be near the Bolero vehicle.

Learned counsel for the petitioner submits that when the petitioner is alleged to have run away from the spot, then the

presence of his mobile near the vehicle cannot be presumed. The petitioner or any other person (having second mobile of the petitioner) can't remain near the vehicle as the police had the surveillance over the spot.

The police may investigate the offence after joining the petitioner in the investigation and in case, the petitioner does not co-operate with the Investigating Officer, the police would be at liberty to ask for his custodial interrogation.

In view of aforesaid, it would be appropriate to direct the petitioner to join the investigation on 09.03.2021 at 11.00 A.M. and in the event of his arrest, he shall be enlarged on interim bail, on his furnishing requisite bail bonds/surety bonds subject to the satisfaction of Arresting Officer. However, petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

However, it is made clear that if the petitioner does not co-operate in the process of investigation, the interim protection granted to him shall be withdrawn.

List on 19.05.2021.”

Learned counsel for the petitioner submits that in compliance of the order dated 04.03.2021, petitioner has joined the investigation to the entire satisfaction of the Investigating Officer.

Learned State counsel on instructions from SI Sumer Singh admits the aforesaid fact and submits that an amount of Rs.10,000/- has been recovered from the petitioner and he is no more required for further investigation in the case.

In view of aforesaid factual position, the interim order dated 04.03.2021 is made absolute. Petitioner shall keep on

joining the investigation as and when required to do so and he shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Petition stands disposed of.

07.09.2021
Amandeep

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No