

CRM-M-15529-2021

Date of Decision : 13.09.2021

AJAY KUMAR

...Petitioner

Versus

STATE OF PUNJAB

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Neeraj Yadav, Advocate for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

2. Prayer in the petition under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.0034 dated 02.03.2021, registered under Sections 21, 22, 25, 27-A, 29 of the NDPS Act, 1985, at Police Station City Special Task Force, STF Wing, Phase IV, Mohali.

3. Notice of motion was issued on 09.04.2021, by taking note of the contention of learned counsel for the petitioner that the petitioner had been implicated in a false case solely on the basis of secret information and that apart from the same, there was no other material to connect the petitioner with the commission of the offence besides there was no other case registered against the petitioner and that he was ready and willing to join investigation and fully cooperate in the same.

4. Mr. Hittan Nehra, Addl. AG, Punjab, had accepted notice

and vehemently opposed the prayer for bail by contending that call details record of the petitioner's mobile phone had been obtained for tallying with the call details record of the other co-accused and accordingly requested for time for the same.

3. Reply was filed in Court on 25.08.2021, with copy to learned counsel for the petitioner. A perusal of the reply reveals that the case was registered on the basis of secret information, whereupon raid was conducted on the shop of the accused, where Ajay Kumar son of Avadh Bihari Singh and Davinder Singh, who were found present on the shop were arrested after complying with the requirement under law and recovery of 1.500 kg heroin was made in addition to chemical powder and eight bottles of acid, weighing 10 kg. Samples of the same were deposited with the authorities and during investigation, co-accused made a statement that the petitioner was helping them in preparing heroin whereafter the same was handed over to him for sale, sample of heroin as well as of chemical powder was deposited on 04.03.2021, in the FSL Ludhiana and report in respect thereto was received on 03.08.2021, as per which, the contents of the sample parcel were 'diacetylmorphine' (heroin), Annexure R/1. The reply further mentions that on 10.03.2021, one Vishal Kumar son of Ashwani Kumar, resident of Mohalla Basant Nagar, Near Deepak Sweet Shop, Shimlapuri, Ludhiana, visited the office of the Special Task Force, Ludhiana and met the Investigating Officer, Makhan Ram and told him that the petitioner was resident of Street No.10, Basant Nagar, Shimlapuri, Ludhiana and that fifteen days ago, he met him in the Mohalla and told him that due to lockdown on account of Corona, he had

no work and since it was not possible for him to make both ends meet, he along with his friend Ajay Kumar R/o Mohalla Mahandev Nagar, Ludhiana and Davinder Singh had collected some amount and used the same to start dealing in heroin and that Ajay Kumar used to bring heroin on cheap rates through his friend Davinder Singh from his relative Malti Parshad Verma alias Mama from UP, whereafter, they used to sell the heroin and divide the profit amongst themselves. Reply further mentions that on the advice of Malti Parshad Verma, the accused started buying chemical powder and preparing heroin in the shop at Mahandev Nagar, Ludhiana belonging to Ajay Kumar and were selling the same to customers and further the petitioner asked him that if he was in need of heroin, he would give the same to him on cheap rates but Vishal Kumar refused to indulge himself in such profession and on coming to know from the newspaper of the arrest of the aforementioned persons and being a responsible citizen, he had come to the police and informed about the activities of the petitioner and other co-accused, whereupon, his statement under Section 161 of Cr.P.C. was recorded. Reply further mentions that the petitioner who was having mobile No.79863-78492, co-accused Ajay Kumar son of Awadh Bihari Singh, having mobile No.72839-67530 and accused, Davinder Singh, having mobile No.97937-47500 were in touch with each other and that investigation was still ongoing and the petitioner and co-accused Malti Parshad Verma were to be arrested for which raids were being conducted besides custodial interrogation of the petitioner was required to ascertain the real facts, manner of preparation of heroin as well as sale of the same to customers.

4. I have considered the submissions of learned counsel for the parties.

5. Admittedly, secret information was received with regard to the involvement of the petitioner and other co-accused in the preparation and sale of heroin, whereupon, raid was conducted and co-accused, Ajay Kumar son of Avadh Bihari and Davinder Singh were caught red handed and 1.500 kg of heroin besides other material was recovered. Report of FSL the reveals that the contents of the sample parcel were 'diacetylmorphine' (heroin) besides as per statement of Vishal Kumar son of Ashwani Kumar, resident of the same Mohalla as the petitioner, disclosure was made by the petitioner to him, moreover, as per investigation, the petitioner was in touch on mobile phone with the co-accused, Ajay Kumar son of Avadh Bihari and Davinder Singh and there is no stand of the petitioner that the statement of Vishal Kumar, is incorrect or for extraneous considerations. Accordingly, I do not find it a fit case to interfere with the order passed by the learned Judge, Special Court, Ludhiana, dated 25.03.2021, especially as recovery is of commercial quantity of heroin, besides custodial interrogation of the petitioner is required to ascertain the modus operandi of obtaining heroin, preparation and sale of the same to customers by all accused.

6. Accordingly, finding no merit in the petition, the same is dismissed. However, nothing stated hereinabove shall be construed to be an expression of opinion on the merits of the case.

13.09.2021.

rajesh'

(B.S. Walia)
Judge