

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

-:-

CRM-M-37172-2020 (O&M)

Date of decision : 12.01.2021.

Gurbir Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Sandeep Verma, Advocate for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

On 11.11.2020, the following order was passed:-

“Heard through video conferencing.

This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.141 dated 03.09.2020 under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar Kharar, District SAS Nagar (Mohali).

*Learned counsel for the petitioner has contended that the allegation in the FIR is that the co-accused was apprehended with 2 kg of poppy husk and the petitioner herein had been nominated in the disclosure statement made by the co-accused. He has relied upon the judgment of Hon'ble Supreme Court in the case of **“Surinder Kumar Khanna V/s Intelligence Officer Directorate of Revenue Intelligence”** 2018 (8) SCC 271 to contend that the conviction cannot be solely based on the statement of a co-accused.*

Notice of motion.

On the asking of the Court, Mr. Ramandeep Sandhu, Sr. DAG, Punjab, who has joined the session through video conferencing, accepts notice on behalf of the respondent-State. He seeks some time to file status report.

Adjourned to 12.01.2021.

Meanwhile, the petitioner is directed to join investigation as and when called for. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing adequate surety and personal bonds to the satisfaction of the Arresting Officer. The petitioner shall also abide by all the terms and conditions as specified in Section 438(2) of the Code of Criminal Procedure, 1973.”

Learned counsel for the petitioner would contend that the petitioner has since joined investigation and has fully co-operated.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab, on instructions from Sub Inspector Kulwant Singh, has stated that the petitioner has since joined investigation and is no longer required for further investigation. He has, however, stated that there is another case pending against the petitioner under the NDPS Act, however, the petitioner is on bail in the said case.

In the present case, the petitioner has been nominated in the disclosure statement of the co-accused. In the case of *Surender Kumar Khanna Vs. Intelligence Officer, Directorate of Revenue Intelligence*, 2018(8) SCC 271, the Supreme Court has held as under:-

“In the present case, it is accepted that apart from the aforesaid statements of co-accused there is no material suggesting involvement of the appellant in the crime in question. We are thus left with only one piece of material that is the confessional statements of the co-accused as stated above. On the touchstone of law laid down by this Court such a confessional statement of a co-accused cannot by itself be taken as a substantive piece of evidence against another co-accused and can at best be used or utilized in order to lend assurance to the Court. In the absence of any substantive evidence it would be inappropriate to base the conviction of the appellant purely on the statements of co-accused. The appellant is therefore entitled to be acquitted of the charges

leveled against him. We, therefore, accept this appeal, set aside the orders of conviction and sentence and acquit the appellant. The appellant shall be released forthwith unless his custody is required in connection with any other offence.”

Since the petitioner has joined investigation and is fully cooperating in the matter, the order dated 11.11.2020 is made absolute. The petitioner shall, however, come and join the investigation as and when called. The petitioner shall also abide by all the terms and conditions as specified under Section 438(2) of the Code of Criminal Procedure, 1973.

Disposed off accordingly.

January 12, 2021

Yogesh Sharma

NOTE:

(ALKA SARIN)
JUDGE

Whether speaking/non-speaking: Yes/No
Whether reportable: Yes/No