

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

**CRM-M No. 3527 of 2022
Date of Decision: 23.02.2022**

Tikam Ram

..... Petitioner

Versus

Union of India, NCB, Chandigarh / State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Ms. Manjot Kaur, Advocate
for the petitioner.

Ms. Gurmeet Kaur Gill, Sr. Panel Counsel, UOI / NCB.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner, by filing the present petition, under Section 438 Cr.P.C., seeks grant of anticipatory bail in case FIR / NCB Crime No. 39 of 06.06.2021, which was registered against him, at Police Station NCB, Chandigarh, U.T., constituting therein offences embodied under Sections 8, 20(b)(ii)(C), 25, 27-A, 28, 29, 30, 31, 60, and, 62 of the NDPS Act, 1985.

2. The learned counsel for the petitioner submits, that the petitioner has been falsely implicated in the present case. She argues, that the petitioner was neither apprehended at the spot, nor any recovery has been effected from his conscious, and, exclusive possession. She further submits that the petitioner has been falsely implicated in the present case on the basis of disclosure statement, made against him by his son, namely

Sarthak Shirshu, who is also an accused in this case, rather on the basis of

call detail reports. Moreover, she argues that, at this stage, the afore disclosure statement is prima facie lacking in any evidentiary vigour.

3. In reply/ status report, furnished by the respondent, it is averred that that on 06.06.2021, a secret information was received, that Deepak Sharma of Mandi (H.P.), Amar Singh Chauhan of Kullu (H.P.), would bring a substantial quantity of charas, for being handed over to a person named Guruji, a resident of Koshikalan (U.P.), through theirs travelling in their black Mahindra XUV 300 Car bearing Regn No. HP33F-0533. Consequently, the afore Deepak Sharma, Amar Singh Chauhan, and, one Sarthak Shirshu were intercepted by the police party, and, 4.180 kgs. Of charas was recovered. The accused Amar Singh Chauhan, disclosed that he had, on many occasions, delivered charas, belonging to the present petitioner-Tikam Ram, for onward supply, to one person named Guruji in Kosi Kalan, Mathura. Accused-Sarthak Shirshu, who is the son of the present petitioner, also disclosed that, on the direction of his father (the present petitioner), accused Amar Singh had deliverd charas to one Guruji. The present petitioner, who is the father of accused-Sarthak Shishu, is contended to be the principal offender. It is also contended, in the reply, that the present petitioner procured contraband from Dharam Chand @ Dharmu, for further supply through co-accused to one Guruji, who was in direct contact with the petitioner. It is also averred in the reply, that the call detail reports amongst Deepak Sharma, Amar Singh Chauhan, Sarthak Shirshu, and, the present petitioner, do also establish close links amongst them.

4. The learned counsel for the respondent - NCB submits, that the weight of the seizure makes it fall within the ambit of commercial quantity

thereof. She further submits, that the custodial interrogation of the petitioner is required, to unveil the exact source of contraband, and, also to find out the whereabouts, of Guruji, who was to receive the seized contraband.

5. Since the Hon'ble Apex Court, has pronounced, that not only the weight of the prohibited salt or of the pure resinous substance, as, carried in the seized psychotropic substance, or in the narcotic substance, is to be borne in mind rather also the entire or the gross weight of the seizure, is to be borne in mind, for making a conclusion, that whether the weight of the seizure falls hence within the category of small quantity, intermediate quantity or commercial quantity thereof. Therefore, bearing in mind the afore principle of law, and, upon making its application, qua the gross weight of the seizure, thereupon the weight of the entire seizure or the gross weight thereof, rather makes the seizure to fall within the domain of commercial quantity. Therefore, the rigors of Section 37 of the NDPS Act are applicable thereon, and, the bail applicant is prima-facie not entitled to his being admitted on bail.

6. Insofar as, the contention made by the learned counsel for the petitioner that the disclosure statement, if any, made against the petitioner, by his son, has *prima facie* no evidentiary value. Even the above contention is rejected. The reason for rejecting the above contention is comprised in the factum of this Court, while deciding **CRM-M-46238 of 2021** titled as ***Amit Khurana versus State of Haryana***, and, **CRM-M-43476 of 2021** titled as ***Kamal Sikka versus State of Haryana***, taking a view, that the afore made contention, cannot, at this stage, be assigned any credence.

7. No case for grant of anticipatory bail to the petitioner is made

out.

8. The petition is dismissed.

February 23, 2022
dk kamra/gurpreet

(SURESHWAR THAKUR)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes/No</i>