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

CRM-M-12973-2022
Date of decision: 11.05.2022

GURVINDER SINGH

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Arpandeeep Narula, Advocate for the petitioner.

Mr. Sumit Gupta, Addl. A.G. Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner, by filing the present petition, cast under Section 438 of Cr.P.C., seeks grant of anticipatory bail in case FIR No.115 of 10.03.2022, registered at Police Station Sadar Fatehabad, District Fatehabad, wherein offences constituted, under Sections 15-B/27-A of NDPS Act, are embodied.

2. About 28 kgs of poppy straw became recovered, at the crime site, from the alleged conscious, and, exclusive possession of co-accused Harpal Singh @ Pannu, co-accused Balwan, and, co-accused Gurpreet Singh @ Bittu, and, all of them were arrested, at the crime site. The present petitioner was not present, at the crime site, nor he was arrested there. However, in a disclosure statement made by all the above co-accused, they named the present bail petitioner, to be supplier of the contraband (supra), as became seized at the crime site, from the alleged conscious, and, exclusive possession of the above named arrested accused. The supplier of the contraband concerned, becomes the accessory, before the fact recovered, and, also becomes the conspirator in the crime concerned, and, obviously he

becomes amenable to be tried along with the principal accused, or with the principal offenders, by the learned trial Judge concerned.

3. Be that as it may, since the weight of poppy straw, as became recovered, at the crime site, is about 28 kgs, thereupon, the above weight of the recovered narcotic drug, at the crime site, rather makes it fall within the ambit of intermediate quantity thereof. Therefore, the rigors of Section 37 of the NDPS Act are not applicable thereons, hence the present bail petitioner becomes entitled to his being admitted to anticipatory bail.

4. Nonetheless, the learned State counsel vehemently opposes the indulgence of anticipatory bail, being granted to the present bail petitioner, as he submits, on instructions made to him, by SI Bhag Singh, that in the disclosure statement made by all the arrested accused, theirs revealing, that they are operating a racket, engaged in transporting, and, supplying of prohibited narcotic drugs, and, that only if the supplier thereof, and, who the present bail petitioner is subjected to custodial interrogation, he would reveal the supplies, as made to all concerned, rather with *inter-se* connivance of all concerned.

5. In view of the above, the submission is meritworthy, but yet a condition in respect thereof can become imposed, upon the present bail petitioner, inasmuch as, his revealing to the investigating officer concerned, the names of all concerned, to whom he had made supplies of the narcotic drug concerned.

6. The learned State counsel also opposes the indulgence of anticipatory bail being granted to the present bail petitioner, and, his above prayer is rested, upon the fact, that the present bail petitioner is a habitual offender, and, in case this Court proceeds to admit him, to anticipatory bail,

there is every likelihood of his re-indulging in the commission of crime.

7. Be that as it may, the imposition of stringent conditions, is rather deemed fit and appropriate, for being imposed upon the petitioner-bail applicant, necessarily as a measure to allay, the apprehension (supra), reared by the learned State counsel.

8. Consequently, the petition is allowed, and, in the event of the investigating officer concerned, proceeding to arrest the present bail petitioner, the investigating officer may not arrest the bail petitioner, however, subject to his furnishing personal, and, surety bonds in the sum of Rs.50,000/- each, to the satisfaction of the arresting officer, and, also subject to his rendering co-operation to him, in the investigations to be carried into offences mentioned in the present FIR. In addition, he shall not tamper with prosecution evidence nor shall influence the prosecution witnesses, and, shall also reveal to the investigating officer concerned, the names of all persons concerned, to whom he had made supplies of narcotic drug(s). Further, subject to petitioner-bail applicant making an undertaking before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, that in case, he re-indulges in criminal activities, whereupon, on breach thereof, the order made today, shall be *ipso facto* annulled, and, that, upon, his being forthwith arrested by the investigating officer concerned, the latter shall produce the petitioner-bail applicant before the trial Court concerned, for the latter making an order for his being put to judicial custody.

9. Dasti copy.

(SURESHWAR THAKUR)
JUDGE

11.05.2022

Ithlesh

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No

ITHLESH KUMAR
2022.05.13 10:38
I attest to the accuracy and
authenticity of this order