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

CRM-M-18438-2022

Date of decision : 02.05.2022

Gurveer Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. L.S. Sidhu, Advocate for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.102 dated 16.04.2022 registered under Section 17 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Kalanwali, District Sirsa.

Learned counsel for the petitioner has submitted that in the present case, even as per the FIR, the alleged recovery was effected from the place where the father of the petitioner (Jagmel Singh) resides i.e. House No.65, Near Anaj Mandi, Village Kamal, Tehsil Kalanwali, District Sirsa and it was only the father of the petitioner who was arrested at the spot. It is further submitted that the alleged recovery effected from the father of the petitioner is of 399 grams of opium, which is far lesser than the stipulated

commercial quantity which starts from 2.5 kg. It is argued that the case of the prosecution is that the petitioner had run away when the residence of Jagmel Singh was raided. It is further argued that it is impossible to believe that the police party, who had arrived at the said place after receiving the secret information and after having fully prepared themselves for raiding the said premises, would have let the petitioner escape. It is contended that the petitioner is not residing with his father after his marriage and for the said purpose, the petitioner has referred to Citizen Resource Information Department (CRID) Haryana Family Identity Card (Annexure P-3) to show that the petitioner is residing with his wife and daughter and not with his father and is residing in House No.56 near Anaj Mandi, Kamal, Tehsil Kalanwali, District Sirsa. It is further contended that the father of the petitioner is residing in House No.65, near Anaj Mandi, Village Kamal, Tehsil Kalanwali, District Sirsa as is apparent from Citizen Resource Information Department (CRID) Haryana Family Identity Card (Annexure P-4) with respect to father of the petitioner, as per which, father of the petitioner is residing with his wife. It is further contended that the petitioner is not involved in any other case and thus, deserves the concession of anticipatory bail.

Notice of motion.

On advance notice, Mr. Munish Sharma, AAG, Haryana, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition for grant of anticipatory bail to the petitioner and submitted that the recovery had been effected in pursuance of the raid

conducted at the house of the father of the petitioner and in the said raid, 399 grams of opium was recovered from the house of the father of the petitioner and he had been apprehended at the spot. It is the case of the prosecution that the petitioner had fled from the said house.

This Court has heard the learned counsel for the parties and has perused the paper book.

It is not in dispute that the petitioner was not arrested at the spot. It is alleged that the police had secret information and had gone fully prepared to raid the house where the father of the petitioner resides. It is a matter of debate as to how the petitioner, in the presence of so many police officials, who were fully prepared for the raid, managed to escape. It was only the father of the petitioner who had been arrested at the spot and from whom, recovery of 399 grams of opium had been effected, which is far lesser than the stipulated commercial quantity which starts from 2.5 kg. It is the case of the petitioner that the petitioner does not reside with his father and in fact, he resides in House No.56 near Anaj Mandi, Kamal, Tehsil Kalanwali, District Sirsa alongwith his wife and daughter and has relied upon the Citizen Resource Information Department (CRID) Haryana Family Identity Card dated 02.01.2021 (Annexure P-3) for the same. Reliance has also been placed upon Citizen Resource Information Department (CRID) Haryana Family Identity Card of father of the petitioner (Annexure P-4) who alongwith his wife i.e. mother of the petitioner is residing in House No.65, near Anaj Mandi, Village Kamal, Tehsil Kalanwali, District Sirsa and is thus, residing in a separate house than that of the present petitioner. Both the said documents are dated 02.01.2021 i.e. prior to the present raid

and registration of the FIR. The petitioner is stated to be not involved in any other case.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and in the event of arrest, the petitioner is granted the concession of anticipatory bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer and the conditions envisaged under Section 438(2) of Cr.P.C. However, the petitioner shall join the investigation as and when called upon to do so.

It is made clear, in case, the petitioner fails to join the investigation or does not cooperate with the investigation, then the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

02.05.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No