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

CRM-M-29551-2022

Date of decision:13.07.2022

PARMINDER SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Monty Goyal, Advocate
for the petitioner.

Mr. Harpreet Singh Multani, AAG, Punjab

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.0080 of 26.04.2022, registered at Police Station Kot Ise Khan, District Moga, wherein an offence constituted, under Section 21 of NDPS Act, is embodied.

2. The investigating officer concerned, after receiving secret information about the present bail petitioner, along with Gursahib Singh, hence carrying along with them a narcotic drug, upon, their driving a motorcycle, and, if the naka is laid for the relevant purpose, then they would become apprehended, hence proceeded to the crime site. In consequence, the investigating officer concerned, at the crime site, though noticed that, both the above co-accused arrived there, upon, a motorcycle bearing registration No.PB-25G-2130, yet both the co-accused, on sighting the police, rather fled from the site of occurrence. However, the investigating officer concerned, found that,

underneath the pillion seat of the motorcycle heroin weighing about 100 grams was kept.

3. Moreover, the learned State counsel, on instructions given to him by ASI Harbans Singh submits, that the investigating officer concerned, discovered that the crime motorcycle was owned by the wife of the present petitioner. Therefore, the occupation of the motorcycle, at the crime site, by both the co-accused, hence, at the relevant stage, becomes *prima-facie* proven. In consequence also the recovery of the narcotic drugs (supra), as made from underneath the pillion seat thereof, also *prima-facie*, at this stage, acquires an aura of truth. However, since the investigating officer concerned, could not after the co-accused fleeing from the crime site, apprehend them or arrest them. Therefore, the instant petition, cast under Section 438 of Cr.P.C., becomes filed by present bail petitioner, for his being accorded the indulgence of anticipatory bail.

4. Bearing in mind the factum that, the weight of the seized narcotic drug is about 100 grams, and, when it obviously falls within the ambit of non-commercial quantity thereof, thereupon hence, the rigors of Section 37 of the NDPS Act are not applicable thereons, and, the bail petitioner becomes entitled to his being admitted to anticipatory bail.

5. The learned State counsel yet vehemently opposes the grant of anticipatory bail to the present bail petitioner, and, submits, that the indulgence of regular bail may not be accorded to the present bail petitioner, as he is a habitual offender, and, in case he becomes admitted to anticipatory bail, thereupon, there is every likelihood of his fleeing from justice, and, tampering with prosecution evidence, and, also his influencing prosecution witnesses, besides his re-indulging in criminal activities.

6. 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), as becomes reared by the learned State counsel.

7. In consequence, the present petition is allowed, and, in the event of the arrest of the 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 the offences mentioned in the present FIR. Moreover, also with an undertaking, that he shall not tamper with prosecution evidence, and, nor shall influence the prosecution witnesses. Further, subject to the 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 become *ipso facto* annulled, and, 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.

(SURESHWAR THAKUR)
JUDGE

13.07.2022

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