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

CRM-M-34504-2022

Date of decision:05.08.2022

DALVIR SINGH ALIAS DALBIR SINGH

...Petitioner

Versus

THE STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Ashish Bakshi, Advocate
for the petitioner.

Mr. Bhupender Beniwal, 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.51 of 12.04.2022, registered at Police Station Samrala, District Khanna, wherein an offence constituted, under Section 15 of NDPS Act, is embodied.

2. At the crime site, from the alleged conscious, and, exclusive possession of the principal offender 2 kgs 500 grams of poppy husk became recovered, by the investigating officer concerned. The weight of the above seizure makes it fall within the ambit of non-commercial quantity thereof, thereupon hence, the rigors of Section 37 of the NDPS Act are not applicable thereon, and, the bail petitioner becomes entitled to his being admitted to anticipatory bail.

3. The learned State counsel on instructions given to him, by ASI Satnam Singh submits that, the present bail petitioner was not available, at the crime site, along with the principal offender, but during the course of custodial interrogation of the principal offender, he disclosed, to the investigating officer

concerned, that the present bail petitioner supplied to him, the above seized contraband. Therefore, the present bail petitioner becomes amenable for his being tried, as, an conspirator along with the principal offender.

4. Be that as it may, since the weight of the seizure recovered, at the crime site, from the alleged conscious, and, exclusive possession of the principal offender, makes it fall within the ambit of non-commercial quantity thereof, and, as above stated, since the rigors of Section 37 of the NDPS Act are not applicable thereons, as such this Court becomes constrained to admit the present bail petitioner, to anticipatory bail.

5. The further reason which constrains this Court, for admitting the present bail petitioner, to pre-arrest bail, is comprised in the factum, that at this stage, no evidence has been adduced by the prosecution, suggestive that in the event of the bail petitioner being admitted to anticipatory bail, there is every likelihood of his fleeing from justice or tampering with prosecution evidence or influencing the prosecution witnesses.

6. 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.

(SURESHWAR THAKUR)
JUDGE

05.08.2022

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Whether speaking/reasoned:- Yes/No

Whether reportable: Yes/No

ITHLESH KUMAR
2022.08.05 18:23
I attest to the accuracy and
authenticity of this order