

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

Sr. No.208

CRM-M-42102-2021

Date of Decision: 06.01.2022

VIJAY KUMAR

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Parvesh Sachdeva, Advocate
for the petitioner.

Mr. Sukhbir Singh, Additional Advocate General, Punjab.

ARCHANA PURI, J.

The matter has been taken up through video conferencing in the light of COVID-19 pandemic.

This third petition has been filed by the petitioner under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.47 dated 11.03.2021 under Section 15 of the NDPS Act, Police Station Vairo Ke, District Fazilka.

As per the version of the prosecution, in pursuance of the secret information, specifically against the present petitioner and fellow accused Vikram Singh, with regard to their indulgence in smuggling of poppy husk from Rajasthan and further indulgence in sale of the same in Punjab, said Vikram Singh, who was already detained in custody in another FIR, was associated in the investigation and during the course of investigation, he suffered disclosure statement, thereby stating to have smuggled 30 kgs. of poppy husk along with present petitioner-Vijay Kumar. He had also confessed about poppy husk to have been concealed by digging a pit by both of them, in the Haveli/cowshed in the house of Vijay Kumar-present petitioner and that only both of them are in the knowledge of the same.

Further, it is the version of the prosecution that during the course of interrogation of Vikram Singh, he had made statement that he along with Vijay Kumar had kept concealed 30 kgs. of poppy husk in the Haveli/Cowshed of Vijay Kumar. In pursuance of the aforesaid disclosure, from the disclosed spot, recovery of 30 kgs. of poppy husk was effected.

Now, it is submitted by learned counsel for the petitioner that the petitioner has been nominated as accused, only on the basis of the disclosure statement made by fellow accused i.e. Vikram Singh. Even the recovery of 30 kgs. of poppy husk has been falsely shown to be from the house of the petitioner.

On the other hand, learned State counsel resisted the claim of the petitioner for grant of bail, as he submits that even though, present petitioner has been nominated as accused, in pursuance of the disclosure statement made by fellow accused Vikram Singh, who was in custody in another case, but however, there was specific secret information against the present petitioner also, besides the fellow accused and on the basis of the disclosure statement made by the Vikram Singh recovery of 30 kgs. of poppy husk had been effected from the haveli/cow shed of the present petitioner Vijay Kumar.

Copy of the disclosure statement made by Vikram Singh has been placed on record, which specifically states about Vikram Singh and Vijay Kumar, present petitioner to have collectively purchased 30 kgs. of shredded poppy husk powder and to have kept concealed the same in the cow shed of Vijay Kumar. Even DSP concerned had come at the spot and in his presence, the recovery of 30 kgs. of poppy husk was effected from the disclosed spot on the basis of disclosure statement and even independent

witness Harpreet Singh was associated and he has signed the recovery memo as an attesting witness.

Even though, the petitioner has been nominated, as accused at the behest of Vikram Singh, fellow accused, but however, fact remains that recovery of incriminating article has been effected from the house of the present petitioner in the presence of independent witness.

In these circumstances, this Court do not deem fit to grant anticipatory bail to the petitioner. As such, the present petition is hereby dismissed.

(ARCHANA PURI)
JUDGE

06.01.2022

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No