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

CRM-M-39700-2022

Date of Decision: 19.09.2022

Mahender alias Mahendra

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Vikas Bishnoi, Advocate,
for the petitioner.

Mr. Naveen S. Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in case bearing FIR No.358 dated 18.11.2020, under Section 15 of the NDPS Act, 1985, but during investigation Section 15 was deleted and Sections 15-B & 27-A of the NDPS Act have been added, registered at Police Station Agroha, District Hisar.

Notice of motion was issued by this Court on 02.09.2022 and now a status report has been filed by the Deputy Superintendent of Police, Barwala on behalf of the State of Haryana, which is taken on record.

Learned counsel for the petitioner has submitted that it is a case where the petitioner was named on the basis of disclosure statement and even otherwise also there was an alleged recovery of about 33 kgs. of

Poppy Husk from a car which does not fall in the category of commercial quantity under the NDPS Act, and therefore, the petitioner may be considered for the grant of anticipatory bail. He further submitted that the petitioner was not known to the other co-accused and he has been falsely implicated in the present case and the other co-accused, namely, Manish, who was a juvenile and was also not arrested on the spot and it was on his disclosure statement, later on the present petitioner was nominated.

On the other hand, Mr. Naveen S. Panwar, learned DAG, Haryana, while referring to the affidavit, has submitted that it is a case where the police party after getting information that in a vacant place one car bearing GJ-23AF-1642 was lying in unclaimed state and when the police party went to the unclaimed car then they saw two plastic bags were lying on the rear seat and after completion of formality under the provisions of NDPS Act, the car was searched in the presence of Sh. Manoj Kumar, BDPO, Agroha and on search, two plastic bags of *Poppy Husk* were recovered containing 11 kgs. & 990 grams and 20 kgs. & 990 grams of *Poppy Husk*, respectively. The photocopy of R.C., which was recovered from the car, had the name of one Ketan Singh, and thereafter, during the course of investigation, the statement of Ketan Singh was recorded and in which he stated that he sold the car to one Hardik Singh. When Hardik Singh joined the investigation, he stated that he sold the car to one Irfan Bhai Bora and when his statement was recorded, he stated that he had sold the car to one Dig Vijay Singh. Thereafter, when the aforesaid Dig Vijay Singh was joined in the investigation then he stated that he sold the car to one Chaudhary Naresh Kumar, thereafter, when the aforesaid person joined

the investigation then he stated that he had sold the car to one Chaudhary Bishan Singh Rathore when the aforesaid Chaudhary Bishan Singh Rathore was joined in the investigation then he stated that he had sold the car to the petitioner- Mahender @ Mahendra. Thereafter, when the police visited the house of the petitioner, he was not found present but his family members gave the phone number of the aforesaid co-accused-Manish. On the basis of CDR location of the aforesaid phone number, the aforesaid Manish, who was a juvenile, was joined in the investigation and his disclosure statement was recorded wherein he named the present petitioner by stating that he handed over the car and *Poppy Husk* to him for sale and when he saw the police party, he left the car and fled away. Thereafter, for the purpose of arresting the petitioner, the Investigating Officer along with the local Police of PS Khinvsar had visited the house of the petitioner at Rajasthan and while the raid was conducted, the petitioner was present at the house and he was nabbed by the police, but the family members of the petitioners manhandled with the police party and succeeded in getting released the petitioner from the police party and in this regard, an FIR No. 237 dated 01.09.2021 under Sections 332 & 353 IPC was registered at Police Station Khinvsar, District Nagore (Rajasthan), and thereafter, the petitioner is still at large and he has not joined the investigation so far. Thereafter, in the aforesaid incident, some extra force was also called which came on the spot and the house and the fields of the petitioner was searched and during search 4 kgs & 350 grams of *Poppy Husk* was recovered from his fields and in this regard the FIR No.238 dated 01.09.2021 under Sections 8/15 of the NDPS Act was registered at Police Station Khinvsar, District Nagore

(Rajasthan). The learned State counsel further submitted that so far as the role of the present petitioner is concerned, he supplied the car and the *Poppy Husk* to the co-accused, who was a juvenile, for supply of the same to the villagers and custodial interrogation of the petitioner is required for the purpose of completion of the investigation and particularly in view of the fact that the conduct of the petitioner would also disentitle him for grant of anticipatory bail wherein he manhandled the police party at Rajasthan and there is a strong apprehension that in case the petitioner is granted anticipatory bail then he may abscond or flee from justice.

I have heard the learned counsel for the parties.

The allegation in the present case was pertaining to approximately 33 kgs. of *Poppy Husk* from an unclaimed car which was traced by the police party and while conducting the investigation, it was found by the police that the car belonged to the petitioner and even the recovered *Poppy Husk* also belonged to the petitioner and consequently, the police party raided the house of the petitioner in Rajasthan where he allegedly manhandled the police party and managed to escape and thereafter, an FIR was registered at that place in Rajasthan. Thereafter, allegedly from his fields where his house was situated 4 kgs & 350 grams of *Poppy Husk* was recovered and another FIR was registered in this regard at Rajasthan. Although the recovered quantity does not fall in the commercial quantity but the entire facts and circumstances of the case have to be seen at the time of consideration for grant of anticipatory bail. The conduct of the petitioner would also be a relevant factor. The apprehension expressed by the learned State counsel as well as so expressed in Para 13 of the affidavit

filed by the State that in view of the conduct of the petitioner and the *modus operandi* adopted by him, there are chances in case he is released on bail then he may abscond, cannot be ignored.

In view of the aforesaid facts and circumstances, finding no merit in the present petition, the same is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

19.09.2022*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes/No |