

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

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CRM-M-40325-2022
Date of decision : 13.12.2022

Manga Singh Petitioner

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Shreesh Kakkar, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, Asstt. A.G., Punjab
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.45 dated 24.02.2022 registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Patran, District Patiala.

As per the prosecution version on 24.02.2022, the police party on the basis of secret information recovered 05 plastic bags of containing total 90 kgs. of poppy husk. Out of which 03 bags were lying in the filed of Paramjit Singh and 02 bags were lying in the filed of Gurdev Singh. The FIR was registered. During investigation, on secret information, on 24.02.2022 the police recovered an accidental unclaimed Creta car without any registration number from the filed of Guddu Lambardar at Village Bannwala. Further investigation was conducted and on the statement of Nazam Hussain, petitioner-Manga Singh was implicated in the present case.

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. The petitioner was not apprehended on the spot and nothing was recovered from him. The alleged contraband recovered from the fields in Village Duttal and the petitioner has nothing to do with the alleged contraband. The petitioner has been implicated in the present case because of the fact that on the date of alleged recovery, his car was also found in accidental condition at a neighbouring village. However, 02 days before the alleged incident, the petitioner had given his car to his friend who did not return the same. Nothing has to be recovered from the petitioner and his custodial interrogation is not required in the case. The petitioner is also ready and willing to join investigation.

Per contra, learned State counsel has opposed the present petition in terms or status report dated 11.11.2022 which is already on record. He further submits that specific role has been attributed to the petitioner on the basis of statements of witnesses namely Nazam Hussain and Malak Singh. The offence is very serious and therefore, the petitioner does not deserve the concession of anticipatory bail.

I have heard learned counsel for the parties and gone through the paper-book.

As per reply filed by the State, during investigation on 17.07.2022 statement of Malak Singh, Sarpanch of Village Duttal has been recorded in which he stated that on 24.02.2022 when he was going at the Dera of Paramjit Singh, he saw a Creta car white colour came from the side of Dera of Paramjit Singh in a high speed and its front glass and bumper were in broken condition and on the next day, he

came to know that from the fields of Paramjit Singh and Gurdev Singh, poppy husk bags were recovered by the police and the police had also took the Creta car from the motor house of Guddu Nambardar. 02 days ago the petitioner came to him and stated that on the intervening night of 23/24.02.2022, he was coming from Narwana side towards his village on his Creta car but due to fog his vehicle struck with police barricading and due to which his vehicle was damaged. On which he speed up his vehicle and threw the poppy husk bags in the fields in Village Duttal. Owing to accident, his vehicle was damaged and he removed the number plates of the vehicle and parked it near a moto kotha so that police would not doubt about it.

Various efforts were made to nab the present petitioner but he intentionally and willingly absconded and evaded his arrest. The petitioner is also involved in one another case FIR No.481 dated 12.06.2006 registered under Section 15 of the NDPS Act at Police Station Sadar Patiala. However, he was acquitted in the said case.

The allegations against the petitioner are serious in nature. Moreover, the investigation is still going on, therefore, custodial interrogation of the petitioner is necessary. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. This view of mine finds support from the judgment of Hon'ble Supreme Court in **Madhya Pradesh Vs. Pradeep Sharma**, (2014) 2 SCC 171.

Keeping in view the above facts as well as nature of the offence and evidence against the petitioner, the petitioner does not

deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

13.12.2022

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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No