

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-49903-2021 (O&M)

Date of Decision:- 10.1.2022

Balbir Singh

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ashok Giri, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Gurmeet Singh.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered against him vide FIR No.215, dated 16.8.2021, Police Station Focal Point, District Police Commissionerate, Ludhiana, under Section 15 of NDPS Act.
2. As per the FIR on 16.8.2021, when a police party was patrolling in the area of Sahanewal-Kuhara Road, then one Accent Car bearing registration No.PB-02-AG-3355 was seen parked on a 'kachha'

footpath and a Hindu gentleman stepped down from the car and who upon noticing the police party ran towards the fields. However, the said person was apprehended, who disclosed his name as Raj Kumar. Upon search of the car, 3 bags containing 'poppy husk' total weighing 66 kgs. were recovered. During interrogation, said Raj Kumar disclosed that the said 'poppy husk' belongs to his aunt Sukhi @ Mato, his uncle Balbir Singh, his uncle's friend Kamaljit Singh and Peela, maternal aunt of the petitioner. The said Raj Kumar further disclosed that the aforesaid 4 persons had engaged his services for supplying 'poppy husk', which they used to bring in huge quantity. Raj Kumar further disclosed that the aforesaid persons were present at an abandoned place in the bushes near Village Pangaliya and were about to proceed from there in an Alto Car bearing registration No.PB-08-CL-3121 to supply 'poppy husk'. Pursuant to receipt of said information, the police proceeded towards Village Pangaliya but upon noticing the police party, Sukhi @ Mato, her husband Balbir Singh, her aunt Peela and Kamaljit Singh escaped on two white coloured Aactiva Scooters. The search of the Alto Car led to recovery of another 3 bags weighing 66 kgs. of 'poppy husk'. The Alto Car was found to have been purchased by Balbir Singh from one Charanjit Singh. Further search of the bushes nearby led to recovery of another 16 bags of 'poppy husk' total weighing 352 kgs.

3. Learned counsel for the petitioner has submitted that he was never ever arrested at the spot and is sought to be nominated as an accused on the basis of a disclosure statement of one Raj Kumar which cannot

carry any evidentiary value in the absence of any other clinching evidence to establish the complicity of the petitioner. Learned counsel has further submitted that it is highly unlikely that Raj Kumar would name his own relatives and implicate them as the petitioner is uncle of the said Raj Kumar while co-accused Sukhi and Peela are aunts of Raj Kumar. Learned counsel has further submitted that although the prosecution claims that Alto car bearing registration No. PB-08-CL-3121 allegedly recovered belongs to the petitioner but in fact the said car does not stand registered in the name of the petitioner and nor is there any evidence to show that the petitioner had purchased the said vehicle.

4. On the other hand, learned State counsel has submitted that since the petitioner came to be nominated on the basis of statement of co-accused Raj Kumar from whom 66 kgs of 'Poppy Husk' was recovered and that pursuant to the disclosure statement, another 3 bags total weighing 66 kgs. were recovered from petitioner's car, no case for grant of bail is made out. Learned State counsel has submitted that the Alto car in question had been purchased by the petitioner from its original owner and as such the complicity of the petitioner is clearly evident since huge quantity of contraband was recovered from the car belonging to the petitioner.
5. I have considered the aforesaid submissions addressed before this Court.
6. It is not in dispute that the petitioner was never arrested at the spot. Apart from the disclosure statement made by co-accused Raj Kumar,

the case of the prosecution is that the car i.e. Alto car bearing registration No. PB-08-CL-3121 belongs to the petitioner. However, it is not in dispute that the car in question is not registered in the name of the petitioner. The stand of the prosecution, as would be evident from para No.2 of the reply is that *“the said Alto car had been purchased by the petitioner from one Charanjit Singh through an agreement”*.

7. On the last date of hearing this Court while directing the State to file the reply had specifically ordered that in case there is no impediment the State shall furnish a copy of affidavit of Charanjit Singh regarding sale of car to the opposite counsel as well. However, neither any such copy have been furnished to the counsel opposite nor any copy of said affidavit is referred to specifically in the reply and nor is annexed with the reply.
8. In view of the aforestated position, it will be debatable as to whether the petitioner indeed can be said to be owner of the vehicle in question so as to hold him responsible for the recovery allegedly recovered from the said car. In view of the aforestated discussion, the petition merits acceptance and is hereby accepted. In the event of arrest, the petitioner be released on bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

9. It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

10.1.2022

Mohan

**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No