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CRM-M-31579-2020   -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-31579-2020 (O&M)
Date of decision: 08.10.2020

Malkit Singh @ Kaka

... **Petitioner**

Vs.

State of Punjab

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present: Mr. Rajesh Bhatheja, Advocate
                    for the petitioner.

                    Mr. Joginder Pal Ratra, DAG, Punjab.

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ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail in FIR No.172 dated 16.09.2020 under Section 15 of NDPS Act, registered at Police Station Nihal Singh Wala, District Moga.

Learned counsel for the petitioner submits that as per allegations in the FIR, the police party saw a person coming on the feet, carrying a plastic bag and on seeing the police party, he had thrown the bag and ran away from the spot. The accused person was chased by one Head Constable Jagjit Singh, who had stated that he knew him previously and his name is Malkit Singh @ Kaka (present petitioner). It is further submitted that the petitioner is not involved in any other case, therefore, it is highly doubtful how Head Constable Jagjit Singh

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has stated that he knew the petitioner. It is also submitted that the petitioner is a man aged about 45 years and the police party was comprising of number of officials, despite that the petitioner has managed to escape and the police party was not able to catch him, therefore, entire story, on the face of it, seems to be doubtful.

Learned State counsel submits that the petitioner was nominated, as Head Constable Jagjit Singh, who was member of the police party, had stated that the person, who ran away from the spot, is Malkit Singh @ Kaka.

After hearing learned counsel for the parties, considering the fact that the petitioner is not involved in any other case; he is a man of middle age about 45 years and despite presence of 4-5 police officials, he managed to run away from the spot, raises a doubt about the incident, this petition is allowed and the petitioner is granted anticipatory bail subject to the conditions envisaged under Section 438 (2) Cr.P.C.

Since it has been noticed in some of the cases under NDPS Act and majority of cases under Excise Act that on seeing the police party, the accused managed to run away from the spot and in some cases, it has been noticed that on the basis of secret information, while raiding house of the accused person, he jumped from the roof or scaled the wall and police party consisting of 4-5 persons failed to arrest him.

Accordingly, Additional Director General of Police, Bureau of Investigation, Punjab is directed to collect such FIRs mainly under the Excise Act, where the accused ran away from the spot in presence of the police party

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and try to find out the reasons as to why in number of FIRs, same thing is happening.

The Additional Director General of Police, Bureau of Investigation, Punjab is further directed not to depute such police officials especially those who are overweight and unable to run and who have failed to nab the accused at the spot, in investigation of such cases despite the fact that the accused persons are either of middle age and even older person, as it is noticed in number of cases. Therefore, the physical fitness test of all the police officials, who failed to arrest the accused person, be conducted at the Police Training Academies in presence of a team of doctors and if need be, all these police officials be deputed for physical training session of three months to make them physically fit for conducting the raid or in the alternative, the Additional Director General of Police, Bureau of Investigation, Punjab will explore the possibility of deputing young and fit officials, where the raid under the Excise Act is to be conducted.

The report of the ADGP, Bureau of Investigation, Punjab be submitted before the Registrar General of this Court within a period of three months from today.

[ARVIND SINGH SANGWAN]
08.10.2020   **JUDGE**
vishnu

Whether speaking/reasoned   : Yes/No

Whether Reportable   : Yes/No