

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

**CRM-M-31129-2017
Date of decision :22.09.2017**

Randhir Singh @ Dheera

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr. Jagjit Singh Gill, Advocate
for the petitioner.

Mr. K.S. Aulakh, DAG, Punjab.

H.S. MADAAN, J.

This petition for pre-arrest bail has been filed by Randhir Singh @ Dheera an accused in FIR No.101 dated 04.05.2017 under Sections 21, 22, 25 of the NDPS Act registered at Police Station Sidhwan Bet, District Ludhiana Rural.

Briefly stated facts of the case as per prosecution version are that a police party from Police Station Sidhwan Bet was on patrolling and search duty going from village Talwandi Khurd to Jawandi Kalan on 04.05.2017, the police party was in official vehicle, at about 6 p.m. when

such vehicle reached near T-point of village Jawadi Kalan then a car was seen coming from front side being driven at very high speed and on seeing the police party, the driver of the car stopped the car and tried to turn it back; that the driver of the car was apprehended on the basis of suspicion and on being enquired, he disclosed his name as Parminder Singh @ Nikka son of Gurdip Singh resident of Jawadi Kalan Police Station Sidhwan Bet; that a person sitting besides him on the front seat ran towards the fields and could not be nabbed, later on his name known as Randhir Singh @ Dheera resident of Bhanohar Police Station Dakha resident of deserted brick kiln near GT Road; that search of Parminder Singh was conducted as per rules which resulted in recovery of two plastic envelopes from right pocket of the pent which he was wearing; that on checking in one of the packet Heroine was found which on being weighed came out to be 5 grams whereas from the other pocket intoxicating powder (Manoutejik) was there which on being weighed came to be 300 grams; that samples were drawn from the two envelopes, necessary proceedings took place.

Apprehending his arrest in this case, petitioner – Randhir Singh @ Dheera had approached the Court of Sessions for grant of pre-arrest bail, but his request was declined by Judge Special Court, Ludhiana vide order dated 14.06.2017, as such he has knocked at the door of this Court seeking similar relief by filing the instant petition, notice of which was given to the State, which has put in appearance.

I have heard learned counsel for the parties, besides, going through the record and I find that there is absolutely no merit in the present

petition. Pre-arrest bail is an exceptional relief which is not to be granted in routine. The purpose of grant of pre-arrest bail is to protect the people from uncalled for and unnecessary detention and to ensure that nobody is put behind bars for political reasons or reasons other than merits of the case. In the instant case the petitioner is specifically named in the FIR as the person, who was travelling in the car along with Parminder Singh at the relevant time and who had managed to flee while Parminder Singh had been arrested. The very fact that on seeing the police party, the petitioner had run away from the spot goes to show his guilty intention. If he had nothing to conceal and had not done anything wrong and was not aware of the fact that contraband was being carried by Parminder Singh, then there was no occasion for him to run away from the spot. Therefore, the contraband was recovered from Parminder Singh is to be taken in joint possession of Parminder Singh and the petitioner. The contraband recovery comes out to be of commercial quantity. Sections 37 of the NDPS Act provides that

“Section 37 of the Act: *“Offences to be cognizable and non-bailable –*

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, on granting of bail.”

In a citation **State Represented by the C.B.I. vs. Anil Sharma, 1997(4) RCR (Criminal) 268**, it was observed that *custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail.*

At this stage, question to be decided is that as to whether pre-arrest bail is to be granted or not. The truthfulness of the allegations in the FIR is not to be determined by holding a mini trial and the allegations are to be taken as such. Pre-arrest bail is a relief which is not to be granted just at the asking of an accused in routine manner but in exceptional circumstances. Its purpose is not to screen the criminals from legal action and to save them from custodial interrogation which being mere elicitation-oriented, result in the extraction of the important information from mouth of a criminal. Custodial interrogation of the petitioner is necessary for proper and effective investigation. In case such custodial interrogation is denied to the investigating agency, that will leave many loose ends and loopholes,

adversely affecting the investigation which is uncalled for. Thus finding no merit in the petition, the same stands dismissed.

22.09.2017
Gaurav Sorot

(H.S. MADAAN)
JUDGE

- 1. Whether reportable? No
- 2. Whether speaking / reasoned? Yes