

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

CRM-M-18466-2018
Date of decision:7.5.2018

Kewal Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Gurpreet Singh Sandhu, Advocate
for the petitioner.

Mr. Amitoj Singh Dhaliwal, DAG, Punjab
for the sole respondent.

MAHABIR SINGH SINDHU, J. (ORAL)

Present petition under Section 438 of the Criminal Procedure Code ('Cr.P.C.' - for short) has been filed for anticipatory bail to the petitioner in FIR No.74 dated 31.3.2018 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS' – for short) registered at Police Station Maur, District Bathinda.

It is contended by learned counsel for the petitioner that he was not apprehended at the spot and he has been falsely implicated in this case on the statement of co-accused, which is not admissible. The petitioner is ready and willing to join investigation and in view of the

FIR, nothing is to be recovered from the petitioner.

On the other hand, learned State counsel has stated that the commercial quantity of the contraband was recovered from the petitioner and he is not entitled to concession of pre-arrest bail, hence prayed for dismissal of the same.

Heard learned counsel for the parties and perused the record.

Precisely, the accusation against the petitioner is that on 31.3.2018 a police party headed by ASI Gurdev Singh seen two young men sitting under the trees near old Preet Dhaba and they were holding black colour polythenes in their hands and on suspicion, the police party tried to apprehend them but both the said persons after throwing their respective polythenes tried to fled towards the fields. However, one of the them, namely, Prem Singh was apprehended who disclosed the name of escaped person as Kewal Singh-present petitioner. On checking of polythene of Prem Singh (co-accused of the petitioner) 14 vials of Onerex of 100 ml. each and 15 strips of Carisoma containing 10 tablets each were recovered and from the search of polythene thrown by the petitioner-Kewal Singh, 15 vials of Onerex of 100 ml. each and 15 strips of Carisoma containing 10 tablets each were recovered. After following the due procedure, the samples were separately sealed and taken into possession.

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 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 save them from custodial interrogation which being more elicitation-oriented, results into the extraction of the important information from mouth of an offender. 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 administration of justice.

As discussed above, the petitioner was identified by one of the member of the police party also, namely H.C. Gurmail Singh and his name was confirmed by other co-accused. The conscious possession of the petitioner is quite apparent as he after noticing the police party fled away from the spot while throwing the polythene containing contraband in the shape of manufactured drugs of commercial quantity which fully attracts the bar to grant bail, as contemplated under Section 37 of the NDPS Act.

In view of the heavy quantity of recovered contraband and bar of Section 37 NDPS Act, no ground for grant of anticipatory bail to the petitioner is made out. The petition thus stands dismissed.

The above observations may not be construed as an expression of opinion on merits of the case.

(MAHABIR SINGH SINDHU)
JUDGE

7.5.2018
Gaurav Sorot

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| 1. | Whether reportable? | Yes |
| 2. | Whether reasoned / speaking? | Yes |