

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

1. CRM-M-26236-2017

Nirmal Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

2. CRM-M-37225-2017

Raj Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

Date of decision :-23.2.2018

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

Present : Mr.G.S. Salana, Advocate
for the petitioner in **CRM-M-26236-2017**.

Mr.P.S. Sekhon, Advocate
for the petitioner in **CRM-M-37225-2017**

Mr.Ramandeep Sandhu, Sr.D.A.G., Punjab.

H.S. MADAAN, J.

Vide this order, I shall dispose of two petitions for grant of pre-arrest bail i.e. **CRM-M-26236-2017** filed by petitioner – Nirmal Singh and **CRM-M-37225-2017** filed by petitioner Raj Singh, both of them being

accused in FIR No.97 dated 3.7.2017, under Section 15 of NDPS Act, registered at Police Station Sirhind, District Fatehgarh Sahib.

Briefly stated, facts of the case as per prosecution story are that on 3.7.2017 at about 4:15 p.m., a police party headed by ASI Harjit Singh travelling in a Government vehicle was present at bus stand Sadhugarh when the ASI received a secret information that Chamkaur Singh son of Ram Singh, Harwinder Singh @ Harry son of Darshan Singh, Raj Singh and Soni Singh sons of Kaka Singh were engaged in selling poppy husk in different parts of Punjab after bringing it from other States and they were coming in a Verna car bearing No.HR-26A-4786 after loading it with poppy husk from Rajpura side going towards Sirhind side; that accordingly the police party sent ruqa to the police station for registration of the FIR and laid a NAKA; that the car in question came there, which was intercepted; that only two persons were found to be there in the car from where a quintal poppy husk was recovered; that both those persons were arrested in this case.

Apprehending their arrest in this case, petitioners/accused had approached the Court of Sessions seeking grant of pre-arrest bail but their such applications were dismissed by the Court learned Additional Sessions Judge, Fatehgarh Sahib. As such, they have approached this Court asking for similar relief by way of filing separate petitions.

Notice of the petitions was given to the respondents, who put in appearance through counsel.

I have heard learned counsel for the petitioners and learned

State counsel as also learned counsel for the complainant besides going through the record.

Learned counsel for the petitioners has contended that the petitioners are innocent and have been falsely implicated in this case; that no recovery has been effected from them; that their custodial interrogation is not required, therefore, pre-arrest bail be granted to them.

The request is opposed by learned State counsel contending that since the recovery involved amounts to commercial quantity, Section 37 of the Act comes in the way, which reads as under:

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 3 [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.

Learned State counsel further submitted that as it has transpired from the investigation, the petitioners were involved in drug trafficking though not arrested from the spot and their custodial interrogation is necessary. Learned State counsel has further argued that the car in which the poppy husk was being transported has actual registration No.DL01CM-9637 but a fake number of HR-26A-4786 was put thereon. The car belongs to accused Raj Singh. Offence under Section 482 IPC has been added.

After hearing learned counsel for the parties, I find that in the FIR itself name of petitioner Raj Singh has been specifically mentioned and the mere fact that name of Nirmal Singh is not there that does not dilute his offence since the purpose for registration of FIR is to set the criminal machinery into motion and it may not contain all the necessary details since most of the times, it is lodged in hurry. It is only during the investigation that one can come to know about the exact details of the incident, the persons who had participated therein and role played by each one of them. Furthermore, petitioner Raj Singh is involved in two other criminal cases i.e. FIR No.51 dated 27.6.2016, under Section 15 of NDPS Act, Police Station Dharamgarh regarding recovery of 51 kgs. of poppy husk as well as FIR No.180 dated 22.12.2013 under Section 15 of NDPS Act, Police Station Longowal. According to learned State counsel, though petitioner Raj Singh had joined investigation during the period he was granted interim bail but he

has not cooperated with the investigating agency. Similarly petitioner Nirmal Singh though appeared before the Investigating Officer to join the investigation but has not told the facts within his knowledge.

Pre-arrest bail is such a relief which is to be granted in exceptional circumstances and not in routine. The drug trafficking is rising at an alarming rate in this region, especially in the State of Punjab, which has ruined the lives of young men and women. Drug peddlers for a small monetary consideration make the youth to use drugs for a small time excitement/kick. The drug peddlers have successfully destroyed the social fabric of our society and led youth to the wrongful path. Such type of persons need to be dealt with firmly and sternly and no sympathy can be shown to them lest that should prove to be counter productive and result in increased drug trafficking.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Custodial interrogation of the petitioners is definitely required for complete and effective investigation. In case custodial interrogation of the petitioners is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for.

Thus, finding no merits in the petitions, the same stand dismissed.

23.2.2018
Brij

(H.S. MADAAN)
JUDGE

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