

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

CRM-M-7539 of 2018
Date of Decision:11.05.2018

Gagandeep SinghPetitioner

Versus

State of HaryanaRespondent

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. M.S. Sodhi, Advocate
for the petitioner.

Mr. Vikas Malik, DAG, Haryana.

MAHABIR SINGH SINDHU, J.(Oral)

The present petition has been filed under Section 438 of the Code of Criminal Procedure (Cr.P.C.) for grant of concession of anticipatory bail to the petitioner in case First Information Report No. 39 dated 20.01.2018, under Section 21(b)/61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') registered at Police Station City Mandi Dabwali, District Sirsa.

It is contended by learned counsel for the petitioner that the petitioner was not apprehended at the spot and he has been falsely implicated in this case. It is further submitted that as per the affidavits furnished by the members of Gram Panchayat i.e. Annexure P-3 (colly) neither chowkidar (watchman); nor the present petitioner was present at the spot. He also submits that the chowkidar-Sagar Singh had given in writing i.e. Annexure P-4 that he was not present with the police party and after 2/3 days of the occurrence the police officials had obtained signature from him

on the blank paper.

Per contra, learned State counsel submits that after seeing the police party, the petitioner had run away from the spot, after throwing the polythene bag. Though, the petitioner contends that he was not apprehended at the spot, yet there is no explanation as to the factum of his running away therefrom. It is further stated that the Chowkidar-Sagar Singh had deposed in his affidavit dated 03.05.2018 (Annexure R-4) regarding the occurrence, besides his statement having been recorded under Section 164 Cr.P.C.. In support of such contentions, the learned State Counsel has referred to the reply filed by the State by way of affidavit of the Senior Police Officers. It is, thus, contended that it could not be shown as to why said Sagar Singh would implicate the present petitioner in a false case

Heard learned counsel for the parties and and perused the paper book.

As per accusation, a secret information was received with regard to involvement of the present petitioner on selling of the drugs. Upon this, police party proceeded towards the house of the petitioner. Near the house of the petitioner, he was seen coming out. After noticing the police party ahead, the petitioner threw the polythene bag held by him and escaped by taking advantage of darkness in the nearby fields. Upon search, the envelope was found containing nine strips having 60 tablets each totalling 540 tablets of Alprazolam and three vials of ONEREX 100 ml. each were recovered and that is of “commercial quantity” under the NDPS Act.

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 a routine manner, but in exceptional circumstances. Its purpose is not to save the accused from custodial interrogation which being more elicitation-oriented, results into the extraction of the important information from mouth of the offender. Custodial interrogation of the petitioner is necessary for proper and effective investigation. In case such if the custodial interrogation is denied to the investigating agency, that will leave many loose ends and loopholes, adversely affecting the administration of justice.

In the instant case, the custodial interrogation of the petitioner is necessary so as to bring the allegations contained in the FIR to the logical end. As observed above, the factum of running away of the petitioner upon noticing the police party from the spot is duly established. The statement of Sagar Singh, Chowkidar, by way of affidavit as well as under Section 164 Cr.P.C. can not be disbelieved, at this stage.

In view of the above, no ground for grant of anticipatory bail to the petitioner is made out. Thus, the petition stands dismissed.

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

[MAHABIR SINGH SINDHU]
JUDGE

May 11, 2018
rashmi

Whether speaking/reasoned
Whether reportable?

yes/no
yes/no