

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 8245 of 2018 (O&M)

Date of decision : 19.3.2018

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Mukhtiar Singh @ Mukha and another

.....Petitioners

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Jatinder Pal Singh Smagh, Advocate
for the petitioners.

Mr. Saurav Khurana, Deputy Advocate General,
Punjab.

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H. S. Madaan, J. (Oral)

This petition for pre-arrest bail has been filed by petitioners Mukhtiar Singh @ Mukha and Tehal Singh, both of them being accused in FIR No. 259 dated 14.9.2017 for offences under Sections 15/61/85 of the NDPS Act, registered with Police Station Sadar, Ferozepur, District Ferozepur.

Briefly stated, facts of the case as per prosecution version are that on 14.9.2017, a Police Party apprehended accused Sajjan and Subhash in the area of ½ kms ahead of the main road Bandala to Faridewala, while riding a motorcycle without number. It

was being driven by Sajjan with Subhash as pillion rider and a plastic bag was placed in between them, which was found to contain poppy husk. Formal FIR was registered in the matter. Accused were arrested in this case. Samples were drawn from the recovered poppy husk and then case property was taken into possession. During the course of interrogation, the accused disclosed that they had purchased the said poppy husk from accused-petitioners Tehal Singh and Mukhtiar Singh @ Mukha. In that way, they were nominated.

Apprehending their arrest in this case, they had approached the court of Sessions by way of filing a petition for grant of pre-arrest bail, which was assigned to the Additional Sessions Judge, Ferozepur, who vide order dated 7.2.2018 dismissed their petition for pre-arrest bail, as such they have approached this Court for grant of similar relief by filing the present petition, which is being opposed by the State counsel.

I have heard learned counsel for the petitioners, learned State counsel, besides going through the record.

Learned counsel for the petitioners has contended that the petitioners are neither named in the FIR nor any recovery was effected from them, only their co-accused has named them in statements before the police, which are not admissible in evidence. The petitioners are ready and willing to join the investigation, as such pre-arrest bail be granted to them.

Whereas, learned State counsel opposing the request vehemently, stated that custodial interrogation of the petitioners is required to find out as to from where they had procured the

contraband which had been recovered from possession of their co-accused and to how many persons they have been supplying the poppy husk and their petition be declined. The petitioners are shown to be involved in various other criminal cases, the details of which are given as under:-

1. FIR No. 158/2009, Police Station Makhu (against petitioner No.1)
2. FIR No. 34/2017, Police Station Makhu (against petitioner No.1)
3. FIR No. 64/2012, Police Station Makhu (against petitioners No. 1 and 2)
4. FIR No. 44/2004, Police Station Makhu (against petitioner No.2.)

After hearing the rival contentions I find that though the petitioners are not named in the FIR, but then FIR is not an encyclopedia and is often lodged in a haste, where minute details are not given. It is only after registration of the FIR when the matter is investigated, then the detailed manner of the incident and persons involved in the incident come out to be there. Disclosure statement can certainly be taken into consideration by the police during investigation to provide further lead in the investigation and it is even admissible under Section 30 of the Indian Evidence Act also during the trial. The drug peddlers have successfully destroyed the social fabric of our society and led youth to the wrongful path. Such types 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 increase drug trafficking.

Custodial interrogation of the petitioner in this case is found to be necessary for complete and effective investigation. If the same is denied to the Investigating Agency, that shall leave many loose ends and gaps, which is uncalled for. As observed in authority *State represented by the CBI vs. Anil Sharma, 1997 (4) RCR (Criminal) 268*, custodial interrogation is qualitatively more elicitation oriented 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 information.

No ground for grant of pre-arrest bail is made out.

The petition being without any merit stands dismissed.

19.3.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No