

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

**CRM-M No.35595 of 2019 (O&M)
Date of Decision: 10.12.2019**

Gurpreet Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Paramjit Singh Bal, Advocate for the petitioner.

Mr. V.G.Jauhar, Sr. DAG, Punjab
for the respondent/State.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition has been filed under Section 438 Cr.P.C. for grant of pre-arrest bail to the petitioner in case bearing FIR No.98 dated 13.08.2019, under Sections 15 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*), registered at Police Station Machhiwara, Police District Khanna, District Ludhiana.

It is contended on behalf of the petitioner that neither any recovery was effected from him; nor he was arrested on the spot. Also contended that as a matter of fact, petitioner has been falsely implicated in the present case and thus, deserves the concession of pre-arrest bail.

On the other hand, learned State Counsel, on instructions from the police official present in the Court, opposed the prayer while submitting that concededly, petitioner is the owner of Innova Car bearing registration No.PB-10-BW-0039 and he was identified on the spot and rather on asking, he disclosed his name as Gurpreet Singh s/o Mohinder Singh, r/o 145 Gorsia Makhan, Tehsil Jagraon, District Ludhiana.

Affidavit dated 09.12.2019 of Sh. Rakesh Agarwal, Commissioner of Police as well as affidavit dated 02.12.2019 of Sh. Gursharndeeep Singh Grewal, Senior Superintendent of Police, Khanna, District Ludhiana have been filed. The same are taken on record. Copies thereof supplied to the opposite side.

Heard both sides and perused the paper-book.

At this stage, the point to be decided is as to whether pre-arrest bail be granted to the petitioner or not? The truthfulness of the allegations in the FIR is not to be determined by holding parallel trial in a petition under Section 438 Cr.P.C. and the allegations are to be taken on face value coupled with the material available with police. Pre-arrest bail is a relief, which is not to be granted just at the asking of an accused in routine manner under the NDPS Act, but in exceptional circumstances in view of the embargo contained under Section 37 thereof. Its purpose is not to save the accused from custodial interrogation, which results into the extraction of the relevant facts from his mouth to maintain balance between both sides in such type of cases.

A perusal of the affidavit of Senior Superintendent of Police, Khanna reveals that although the Inspector was negligent in performing the duties and on that count, the petitioner was successful in running away from the spot and as a result thereof, the departmental enquiry has been ordered against the Inspector concerned.

Also to be noticed that the co-accused of the petitioner, namely, Bashir Ahmed was arrested on the spot and the quantity recovered in the present case is commercial in nature i.e. 55 Kgs. of *Poppy Husk*.

Undisputedly, petitioner is the owner of Innova Car bearing registration No.PB-10-BW-0039 and he was identified on the spot and on asking by the police officials, he disclosed his name as Gurpreet Singh s/o Mohinder Singh, r/o 145 Gorsia Makhan, Tehsil Jagraon, District Ludhiana. Thus, in the present case, custodial interrogation of the petitioner is very much necessary for proper and effective investigation and if the same is denied to the Investigating Agency, that would adversely affect the administration of justice.

Since recovery in this case is not only commercial, but petitioner himself has disclosed his name to the police at the time of occurrence and thus, keeping in view the quantity of recovered contraband as well as bar under Section 37 of the NDPS Act, no ground for grant of anticipatory bail to the petitioner is made out. Hence, the present petition is dismissed.

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

December 10, 2019
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes