

CRM-M No.61723 OF 2018

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IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CRM-M No.61723 OF 2018

Date of Decision: 08.01.2019

Amarjeet

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present Mr.R.S.Mamli, Advocate for the petitioner.
Mr.Yashwinder Singh, DAG, Haryana.

MAHABIR SINGH SINDHU, J (ORAL)

Present petition has been filed under Section 438 Cr.P.C for grant of anticipatory bail to the petitioner in case FIR No. 664 dated 28.11.2018, under Sections 21(b)/27-A of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') registered at Police Station City Fatehabad, District Fatehabad.

As per prosecution story, co-accused Ravi @ Chuha @ Pujari and Hemant Kumar @ Noni were found to have been in possession of 9 and 6 grams of heroine respectively and during investigation by the police, the present petitioner was found to have sold the said contraband to his co-accused.

Learned counsel for the petitioner has denied the prosecution story and contends that the petitioner has been implicated falsely 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 seventeen other criminal cases are pending against 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 28.11.2018 ASI Baldev Raj along with HC Bhupinder Singh, C Angrej Singh and EHC Subhash Chander and driver EASI Rajinder Singh in a government vehicle No. HR-62-8769 were present for patrolling on Bhuna Road. From the side of Bhuna, one vehicle i.e car no. HR-22P-7588 i20 reached with sparkling lights near them and driver was asked to stop the same but he tried to turn the vehicle. On failure to turn the vehicle, a suspicion arose into the mind of ASI and he apprehended two young boys along with car. On inquiry, car driver told his name as Ravi @ Chuha @ Pujari son of Sohan Lal and the other boy who was sitting on conductor side disclosed his name as Hemant Kumar @ Noni son of Hans Raj. Both of them were served notices under Section 50 of NDPS Act. On search being made, 9 grams of heroine from Ravi @ Chuha @ Pujari and 6 grams of heroine from Hemant Kumar @ Noni was recovered. From the dash board of car one mobile phone of VIVO company along with sim and ₹ 90,000/- Indian currency note bundle was 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 to the petitioner or not? Pre-arrest bail is a relief which is not to be granted just at the asking of an accused in routine manner in such like cases, but only in exceptional circumstances where petitioner

satisfies the Court that denial of the same would defeat the ends of justice. Its purpose is not to save the accused from custodial interrogation which being more elicitation-oriented for extraction of the important information from mouth of an offender rather the same 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 in view of the provisions of Section 37 of the NDPS Act.

In view of the above and particularly that seventeen other criminal cases are pending against the petitioner, no ground for grant of anticipatory bail 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.

08.01.2019
mamta

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No