

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

CRM-M-17289-2020

Date of decision:-3.7.2020

Dinesh Kumar

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.Gourav Pathania, Advocate for
Mr.L.S. Mann, Advocate for the petitioner.

Ms.Rashmi Attri, AAG, Punjab.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Dinesh Kumar, an accused in FIR No.412 dated 17.12.2019 for the offences under Section 22 NDPS Act, registered with Police Station Phillaur, District Jalandhar.

Briefly stated, the facts of the case as per the prosecution story are that on 17.12.2019, one Gulshan Kumar was apprehended by the police of Police Station Phillaur, District Jalandhar (Rural) and 20,000 tablets of Clovidol 100-SR were recovered from him. Formal FIR in the matter was recorded. He was interrogated, during the course of which, he disclosed that he had been doing drug trafficking along with Vishal Sharma and Dinesh Kumar (present petitioner).

After being nominated as an accused in this case, petitioner

Dinesh Kumar apprehending his arrest in this case had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, his such request was declined by learned Additional Sessions Judge, Jalandhar vide order dated 25.6.2020. As such, the petitioner has approached this Court asking for similar relief.

Notice of the petition is given to respondent – State. Ms.Rashmi Attri, AAG, Punjab has put in appearance on behalf of respondent – State and accepts notice on behalf of respondent - State.

I have heard learned counsel for the parties besides going through the records.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely involved in this case; as a matter of fact, no recovery was effected from him; the petitioner has been named on the basis of statement of co-accused, which is inadmissible in evidence; that he is ready to join the investigation. As such, pre-arrest bail be granted to the petitioner.

Whereas the request is being opposed vehemently by the State counsel.

As regards the contentions raised by the counsel for the petitioner, the statement of co-accused naming the other persons helping him in drug trafficking can certainly be taken into consideration since it provides lead in the investigation. The mere fact that no recovery has been effected from him does not amount to give a clean chit to the petitioner/accused.

Furthermore, in the contraband said to have been recovered

from the co-accused i.e. 20,000 intoxicant tablets, 8360 gms of Tramadol Hydrochloride salt was found, which amounts to commercial quantity, attracting rigor of Section 37 of the Act. There is nothing to record satisfaction that there are reasonable ground for believing that petitioner is not guilty of that offence or that he has not committed any offence.

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 petitioner is definitely required for complete and effective investigation so as to find out the source from where he is getting the contraband and what was his modus operandi in bringing the contraband and then supplying it to various persons. In case custodial interrogation of the petitioner 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 merit in the petition, the same stands dismissed.

3.7.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No