

CRM-M No.32601 of 2020

Date of Decision : 14.10.2020

Jaiveer Singh

...Petitioner

Versus

State of Haryana

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. D.S. Virk, Advocate for the petitioner.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to the outbreak of Covid-19 pandemic.
2. Prayer in the second petition under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.88 dated 09.02.2020 registered under Sections 17/61, NDPS Act, 1985 at Police Station, City, Sirsa, District Sirsa.
3. Learned counsel contends that vide order dated 28.05.2020, a Co-ordinate Bench of this Court, while noticing implication of the petitioner in case FIR No.88 dated 09.02.2020 registered under Sections 17/61, NDPS Act, 1985 at Police Station City, Sirsa, District Sirsa, on the disclosure statement of co accused, Iqbal Singh, issued notice of motion for 30.07.2020 while directing the petitioner to join investigation as and when required and further ordering that in the event of arrest, the petitioner be released on interim bail but the petitioner could not join investigation, therefore, on 30.07.2020, counsel for the petitioner requested for grant of

one opportunity to the petitioner to join investigation,whereupon while adjourning the case to 10.08.2020, the petitioner was directed to join investigation within 01 week in terms of order of this Court dated 28.05.2020. However, on 10.08.2020, learned counsel in the backdrop of petitioner having failed to join investigation despite various notices having been issued to him, withdrew the petition under Section 438 Cr.P.C.

4. Learned counsel for the petitioner states that the petitioner was unable to join investigation due to registration of case FIR No.125 dated 11.06.2020 under Sections 17, 27-A, 61 & 85, NDPS Act, 1985 at Police Station Nathusari Chopta, Sirsa, District Sirsa on the basis of disclosure statement by co-accused Dinesh Kumar but the petitioner was granted interim bail in said case vide order dated 30.09.2020 in CRM-M No.27364 of 2020. Learned Counsel contends that in the circumstances, the petitioner was prevented by sufficient cause therefore he be released on bail in the instant case since his implication in the case is on the basis of disclosure statement alone.

5. Mr. Surender Singh, AAG, Haryana, on instructions from ASI Jagmeet Singh on the other hand states that the petitioner stands convicted in case FIR No.33 dated 31.03.2005 registered under Section 15, NDPS Act at Police Station Nathusari Chopta, Sirsa District Sirsa, and sentenced to undergo rigorous imprisonment of 10 years along with fine of Rs.1 lakh, while in another case i.e. FIR No.44 dated 25.03.2020 registered under Sections 17 and 27-A, NDPS Act at Police Station Sadar Sirsa, he has been convicted and sentenced to undergo imprisonment of 07 years along with

being on bail in aforesaid 02 cases, 02 other cases i.e. FIR No.88 dated 09.02.2020 have been registered under Sections 17/61, NDPS Act, 1985 at Police Station City Sirsa, District Sirsa and FIR No.125 dated 11.06.2020 registered under Sections 17, 27-A, 61 & 85, NDPS Act, 1985 at Police Station Nathusari Chopta, Sirsa, District Sirsa.

6. Learned State Counsel contends that in the circumstances, the petitioner is not entitled to the grant of concession of pre arrest bail.

7. I have considered the submissions of learned counsel for the parties.

8. Admittedly, the petitioner is involved in 04 cases as per the details given above, out of which in 02 cases, he has been convicted and sentenced to undergo rigorous imprisonment for 10 years and 07 years respectively and while on bail in appeals in aforesaid cases, FIR Nos.88 & 125 dated 09.02.2020 & 11.06.2020 respectively has been registered against the petitioner under the NDPS Act. Though, the aforementioned subsequent FIRs are on the basis of disclosure statement, yet the fact remains that in FIR No.125 dated 11.06.2020, it has come on record on the basis of investigation that as per call records, the petitioner was in regular touch with co-accused Dinesh Kumar, who had implicated the petitioner in the said case on the basis of disclosure statement.

9. The petition for pre arrest bail in the instant case was withdrawn on failure to join investigation despite grant of opportunities. However, the petitioner failed to join investigation due to involvement in another case registered under the NDPS Act. Petitioner stands convicted in

two other cases under the NDPS Act and while on bail in said cases is

involved in two other cases under the NDPS Act. In one case apart from disclosure statement, call details of the petitioner reveal his being in regular touch with co accused who made a disclosure statement against the petitioner. Apparently, the petitioner is a habitual offender, therefore, no ground whatsoever is made out for granting pre-arrest bail.

10. ***Dismissed.***

(B.S. Walia)
Judge

October 14, 2020
'Rajneesh-Amit'

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>