

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

203-2

CRM-M-33247 of 2020

Date of Decision: 27.10.2020

SHINDER SINGH

....Petitioner

Versus

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Vikas Kumar, Advocate
for the petitioner.

Mr. Harbir Sandhu, AAG, Punjab.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

Prayer in the instant petition under Section 438 Cr.P.C. is for grant of pre-arrest bail to petitioner-**Shinder Singh** in case FIR No.169 dated 05.08.2020 under Sections 22 and 25 of NDPS Act, registered at Police Station Maur, District Bathinda.

Learned counsel for the petitioner *inter alia* contends that the allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. He further urges that the only allegation against the petitioner is that he is the registered owner of

car make Alto bearing registration No.HR-40H-5543, allegedly from which contraband was recovered. He further urges that as a matter of fact above said car was borrowed from petitioner by his cousin Sandeep Singh (co-accused) to go to Bathinda and, thus, said vehicle was misused by co-accused, whereas petitioner had never permitted use of his car for commission of alleged offence. He further urges that mere fact that car in question belongs to petitioner, it cannot be said that said vehicle was being used by Sandeep Singh and another with the consent and knowledge of petitioner and that too for illegal purpose. He further urges that the petitioner was not apprehended on the spot and alleged recovery of contraband has already been effected. He further urges that in a given situation, petitioner cannot be held liable for the commission of offence in question while applying provisions of Section 25 of NDPS Act. He further urges that though petitioner has no nexus whatsoever with the alleged offence, even then he is ready to join investigation as and when called upon to do so by the Investigating Agency and as such he deserves the concession of pre-arrest bail.

On the other hand, learned State counsel while opposing the cause of petitioner vehemently submits that petitioner has direct nexus with the offence in question as vehicle i.e.car make Alto bearing registration No.HR-40H-5543, whereby contraband i.e. 34,000 tablets of Clovidol 100-SR (Tramadol Hydrochloride), was being transported, petitioner was the registered owner of said vehicle at the relevant time.

He further urges that during the course of search of offending vehicle (car) on the spot, Certificate of Registration of said car was found which was in the name of petitioner and as such petitioner was named as accused in the FIR itself. He further urges that petitioner is resident of village Dera Fattuwal, Ardan, District Karnal whereas co-accused Sandeep Singh is resident of village Reond Kalan, District Mansa and as such explanation rendered by petitioner that his cousin (Sandeep Singh) had borrowed his vehicle from him to go to Bathinda is afterthought version just to get rid of criminal liability. He further urges that since huge quantity of contraband (commercial quantity) was recovered from the vehicle owned by petitioner, his custodial interrogation is necessitated to unearth the genesis of offence. He further urges that the petitioner was specifically named in the FIR being registered owner of offending vehicle, in this scenario, petitioner does not deserve the concession of pre-arrest bail.

I have heard learned counsel for the parties and have carefully gone through the contents of petition as well as reply submitted at the instance of respondent-State.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly petitioner being registered owner of vehicle i.e. car make Alto bearing registration No.HR-40H-5543 permitted co-accused namely, Gursewak Singh and Sandeep Singh in the transportation of huge quantity of contraband i.e.

34,000 tablets of Clovidol 100-SR (Tramadol Hydrochloride) by said vehicle. Allegedly, co-accused Amritpal Singh @ Amitpal Singh @ Gaggu was guiding the above said vehicle while riding on motorcycle as above said contraband was to be purchased by him. Allegedly, petitioner was named in the FIR and his attributed role was also narrated in the FIR itself. Pre-arrest bail to an accused should be granted in exceptional circumstances as a person couched in comparative safety to the pre-arrest bail would certainly not disclose all the facts within his knowledge. In a given situation, custodial interrogation of petitioner is certainly required for complete and effective investigation. In case, same is denied to the Investigating Agency that shall leave many glaring loopholes and gaps, adversely affecting investigation, which is uncalled for. Keeping in view totality of entire scenario and gravity of offence, no extra-ordinary ground has been made out in favour of petitioner for his entitlement of pre-arrest bail.

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner is dismissed.

(LALIT BATRA)
JUDGE

27.10.2020

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No