

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

CRM-M-42887-2020

Date of decision:-18.12.2020

Partap Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr. Sandeep Chopra, Advocate
for the petitioner.

Mr.R.S. Thind, DAG, 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 petitioner – Partap Singh, aged about 33 years, resident of village Jolian, an accused in FIR No.84 dated 16.9.2020 for the offences under Sections 22 and 29 of NDPS Act, registered with Police Dharamgarh, District Sangrur.

Briefly stated, the prosecution story is that on 16.9.2020, a police party from Police Station City, Dharamgarh, District Sangrur at about 9:05 p.m. while being present at bus stand Jakhepalwas, Jakhepal in connection with official duties, received a secret information that Partap Singh (present petitioner) along with his brother-in-law in relations

(SAALA) was engaged in work of selling intoxicating tablets after bringing those from outside and on that day, Partap Singh along with his brother-in-law was selling intoxicating tablets in the area of Police Station Dharamgarh on their motorcycle make Super Splendor without number, heading towards Sunam. Finding the information to be reliable, ASI Narinder Singh, the Incharge of the police party sent ruqa to the police station, on the basis of which formal FIR was registered. The police party proceeded towards the disclosed place and laid a NAKA. They observed two persons going on motorcycle having kept a heavy bag in between them. The person driving the motorcycle was identified by ASI Narinder Singh as Partap Singh. However, the riders of the motorcycle managed to escape under cover of darkness leaving the motorcycle and the bag being carried by them behind. The bag was found to contain 1000 strips of intoxicant tablets make clovidol 100SR. Those were taken into possession. Formal FIR was recorded. The investigation in the matter started.

Apprehending his arrest in this case, the petitioner had approached the Court of Sessions for grant of pre-arrest bail but his such application was declined by learned Judge, Special Court (Duty), Sangrur vide order dated 3.11.2020. Feeling aggrieved, he has approached this Court for grant of similar relief.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits

from custodial interrogation.

The petitioner is specifically named in the FIR. The petitioner wants to take advantage of his being successful in running away from the spot on being chased by the police party. Allowing pre arrest bail to such type of persons would amount to putting premium on their wrong actions. Therefore, he can certainly be not allowed the anticipatory bail. The recovered contraband amounts to commercial quantity, attracting bar of Section 37 of NDPS Act. Section 37 of the Act reads as under:

Offences to be cognizable and non-bailable.—(1)

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for 3 [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.

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 to find out as to from where he had brought the contraband, where he intended to sell it and the details of the person, who was accompanying him when they were spotted by the police party and challenged to stop. 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.

18.12.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No