

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

CRM-M-43125-2020

Date of decision:-21.12.2020

Ankit

...Petitioner

Versus

State of Haryana

...Respondent

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

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

Mr.Tanuj Sharma, AAG, Haryana.

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 – Ankit, aged 21 years, resident of village Manana, Police Station Samalkha, District Panipat, an accused in FIR No.355 dated 28.11.2020 for the offences under Section 20 of NDPS Act, registered with Police Station Sector – 29, District Panipat.

Briefly stated, the facts of the case as per the prosecution story are that on 27.11.2020 at about 9:00 p.m. in the area of Pasina turning, Siwah within the jurisdiction of Police Station Sector-29, Panipat,

one Rahul son of Mehar Singh Sharma, resident of village Diwana, District Panipat was apprehended by the police party and he was found in possession of 422 gms. of Charas. He was arrested in this case and was interrogated, during the course of which he disclosed that he had purchased the contraband from the present petitioner Ankit, in that way, Ankit was nominated as an accused in this case.

Apprehending his arrest in this case, the petitioner had approached the Court of Sessions at Panipat seeking grant of pre-arrest bail by filing an application, however, his such request was declined by learned Additional Sessions Judge, Panipat vide order dated 16.12.2020. As such, the petitioner has approached this Court asking for similar relief.

Notice of the petition has been given to respondent – State. Mr. Tanuj Sharma, AAG, Haryana has appeared on behalf of respondent – State and accepts notice on its behalf. He opposes the petition.

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

After hearing learned counsel for the parties and going through the record, I find that the petitioner is not entitled to grant of pre-arrest bail.

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 contention of learned counsel for the petitioner that since the petitioner has been named on the basis of statement of co-accused,

which is inadmissible in evidence, therefore no proceeding can take place against the petitioner, is without merit. Such disclosure statement of co-accused can certainly be taken into consideration for providing lead in investigation and even during trial it is admissible under Section 30 of the Indian Evidence Act.

Section 30 of the Indian Evidence Act provides that when more person than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and other of such persons is proved, the Court may take into consideration such confession as against such other person as well as against the person who makes such confession.

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 found to be necessary and essential to find out from where he had procured the contraband and to whom the same was to be supplied. The names of his customers are also to be found out. Drug money is also to be recovered from him. 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.

21.12.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No