

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

CRM-M-47645-2019(O&M)

Date of decision:-28.2.2020

Parmbir Singh @ Bobby

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.Amit Arora, Advocate
for the petitioner.

Ms.Amarjit Kaur Khurana, DAG, Punjab.

H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Parmbir Singh @ Bobby, an accused in FIR No.100 dated 30.9.2019 for the offences under Sections 21 and 29 of NDPS Act and 25 & 27 of Arms Act, registered at Police Station Bhikhiwind, District Tarn Taran.

Briefly stated, the facts of the case as per the prosecution version are that on 30.9.2019, Gurjant Singh, accused was apprehended by the police party from Police Station Bhikhiwind and he was found to be in possession of 320 gms. of heroin besides arms and ammunition. Such accused was interrogated, during the course of which, he disclosed that he had purchased that heroin from Parmbir Singh @ Bobby (present petitioner) son of Sarbjit Singh @ Bittu, resident of village Bhikhiwind.

Therefore, the petitioner was nominated as an accused.

Apprehending his arrest in this case, the petitioner 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, Tarn Taran vide order dated 22.10.2019. As such, the petitioner has approached this Court asking for similar relief.

Notice of the petition was given to respondent – State, which put in appearance through counsel.

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

Learned counsel for the petitioner has contended that the petitioner is innocent and has not been found in possession of any contraband. The only evidence against him is confessional statement of a co-accused, which is inadmissible in evidence. The petitioner has since joined the investigation and no recovery is to be effected from him. Therefore, pre-arrest bail be granted to the petitioner.

Whereas the request is being opposed vehemently by the State counsel. Learned State counsel has submitted that though the petitioner has joined the investigation but he has not co-operated therein. Furthermore, the petitioner is a previous convict in case FIR No.207 of 2014. As per the judgment delivered by Additional Sessions Judge, Tarn Taran, he was found in possession of 100 gms. of heroin for which FIR No.207 of 2014 for the offence under Section 21 of the NDPS Act was registered against him at Police Station Sadar, Tarn Taran and he was convicted in that case for two months and to pay a fine of Rs.10,000/-.

Here in the present case during interrogation of accused Gurjant Singh, who was found in possession of contraband, arms and ammunition by the police, name of the present petitioner has cropped up as supplier of the contraband.

Under Section 30 of the Evidence Act provides that when more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some 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.

The confession is to be proved during the trial before it could be relied upon. But then such confession made during investigation can certainly be looked into for providing lead in the investigation.

Learned counsel for the petitioner has referred to some judgments first being **Tofan Singh Versus State of Tamil Nadu, 2013(4) RCR(Criminal)631** by the Apex Court. This judgment does not help the case of the petitioner since as per the facts of the said judgment, the point involved therein was as to whether a confessional statement made under Section 67 of the NDPS Act before Officers of Narcotic Control Bureau is admissible in evidence or not. Here the situation is entirely different. Furthermore, we are dealing with question as to whether the petitioner is entitled to grant of pre-arrest bail, and not looking into the value of confessional statement made by an accused under Section 67 of the Act that too before officer of Narcotic Control Bureau.

With regard to the second judgment **Surinder Kumar**

Khanna Versus Intelligence Officer, Directorate of Revenue Intelligence, 2018(3) RCR (Criminal)954 by the Supreme Court, the point for consideration was as to whether confessional statement of accused under Section 67 of the Act is admissible against co-accused. Such point was answered holding that except in cases where there is specific provision in law making such confession of co-accused admissible against another accused, confession is not admissible as against another accused. However, for the reasons given above, this judgment is also distinguishable and does not come to the rescue of the petitioner.

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.

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.

28.2.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No