

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

CRM-M-1087-2021

Date of decision:-11.1.2021

Surinder Singh @ Chhinda

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Ms.Gurmeet Kaur, Advocate for
Ms.Anisha Rani, Advocate for the petitioner.

Mr.J.S. Ghuman, 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 the petitioner – Surinder Singh @ Chhinda, aged 24 years, resident of village Tiwnana Kala,P.S. City Jalalabad, Tehsil Jalalabad, District Fazilka, an accused in FIR No.42 dated 16.3.2020 for the offences under Sections 22 and 29 of NDPS Act and 389, 420 and 120-B IPC, registered with Police Station City, Jalalabad, District Fazilka.

Briefly stated, the facts of the case are that the FIR in this case was recorded at the instance of complainant Sandeep Kumar @

Deepa son of Parshotam Lal, resident of Amir Khas, presently residing at Gobind Nagri nearby Gharu, MC Jalalabad, aged about 34 years, who in the statement made by him to the police stated that he is doing business of sale purchase of cars; one Sona Singh son of Surjit Singh, resident of Mastu Wala, Jalalabad was engaged in drug peddling and he had given information in that regard to the police, resultantly an FIR was registered against Sona Singh and for that reason Sona Singh nursed a grudge against him and had sent message to him that he would implicate him in a false criminal case; in pursuance of their conspiracy, Sona Singh along with Sanjeev Kumar son of Prannath, resident of Bhamni Wala, Satnam Singh, Sarpanch, resident of Ghumani Wala Khuh and mother-in-law of complainant Laxmi Bai had placed intoxicant tablets in the cooler placed in the house of complainant; however, while cleaning the cooler the complainant noticed the intoxicant tablets wrapped in a polythene. According to the complainant, these tablets have been placed in the cooler in absence of the complainant by Sona Singh, Sanjeev Kumar, Satnam Singh, Sarpanch and Laxmi Bai. On information being given to the police, formal FIR in the matter was recorded and investigation in the case started. Petitioner Surinder Singh @ Chhinda was nominated in this case being the person, from whom the intoxicant tablets had been purchased.

Apprehending his arrest in this case, the petitioner had approached the Court of Sessions at Fazilka seeking grant of pre-arrest bail by filing an application, however, his such request was declined by learned Judge, Special Court, Fazilka vide order dated 21.12.2020. As such, the petitioner has approached this Court asking for similar relief.

Notice of the petition has been given to respondent – State. Mr.J.S.Ghuman, DAG, Punjab 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.

Here as per the prosecution story, 820 tablets of Tramadol Hydrochloride having average weight of 410.19 mg had been placed in the cooler in the house of complainant by accused Sona Singh, Sanjeev Kumar, Satnam Singh, Sarpanch and Laxmi Bai in conspiracy with each other. The same is said to have been supplied to the accused by the present petitioner.

The recovery in this case amounts to commercial quantity attracting bar of Section 37 of the NDPS Act, which 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 subsection (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.

There is no reason available to this Court to record satisfaction that there are reasonable grounds for believing that the petitioner is not guilty of such offence and that he is not likely to commit any offence while on 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 found to be necessary and essential to find out from where he had procured the intoxicant tablets and to whom the same were supplied, the names of his other customers are also to be found out. 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.

11.1.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No