

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

CRM-M-3640-2021

Date of decision:-27.1.2021

Jatinder Singh @ Ansh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr. Inderjeet Singh, Advocate
for the petitioner.

Mr.Saurav Khurana, 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 – Jatinder Singh @ Ansh, aged about 22 years, resident of House No.15, Street No.3, Sarpanch Colony, Jamalpur, Mundian Kalan, District Ludhiana, an accused in FIR No.0173 dated 25.12.2020, under Sections 21 and 29 of NDPS Act, registered with Police Station Special Task Force, District Ludhiana.

Briefly stated, the prosecution story is that on 25.12.2020 on receipt of secret information, a ruqa was sent to Police Station Special Task Force, District Ludhiana and formal FIR was registered. The police intercepted a motorcycle bearing registration No.PH-10-HF-9478 having

riders Rohit Thakur, Manjit Singh @ Mani and Davinder Kumar and recovered 11 gms. of heroin from them. Accused were interrogated, during the course of which, they disclosed that present petitioner Jatinder Singh @ Ansh used to supply heroin to them and after selling the same, such accused Rohit Thakur, Manjit Singh @ Mani and Davinder Kumar would keep their commission and hand over the remaining drug money to the present petitioner. In that way, the petitioner was nominated.

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, Ludhiana vide order dated 15.1.2021. Feeling aggrieved, he has approached this Court for grant of similar relief.

Notice of the petition was issued to the respondent - State and Mr.Saurav Khurana, DAG, Punjab, accepts notice on behalf of respondent - State.

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

Learned counsel for the petitioner has contended that the petitioner is not named in the FIR and he has been nominated on the basis of statement of co-accused, which is inadmissible in evidence; the petitioner is of young age and does not have any past criminal record and he is ready and willing to join the investigation. As such, pre arrest bail be granted to the petitioner.

Whereas the request is being opposed by the State counsel vehemently.

After hearing the rival contentions and going through the

record, I find that no case for grant of pre-arrest bail to the petitioner is made out. The allegations against the petitioner are very grave and serious that he used to supply heroin to his co-accused, who would sell of the same, retain some amount towards their commission and hand over the remaining drug money to the petitioner. The petitioner comes out to be a drug supplier, who for some financial benefit is playing with lives of the innocent persons making them consume drugs, turning them into drug addicts, in the process creating a serious social problem.

The submission of learned counsel for the petitioner that statement of a co-accused cannot be taken into consideration so as to proceed against the petitioner is totally misconceived. 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.

Merely because the petitioner is not named in the FIR cannot result in grant of any benefit to him by default since FIR is not a substantive piece of evidence and its only purpose is to set the criminal machinery in motion. FIR is often lodged in hurry and it may not contain the minute and precise details of the incident. The FIR can be got registered by a person, who may not be an eye-witness of the same. It is only during investigation of the case that police can come to know about the culprit and criminal, who had committed the crime. Merely for the reason that accused is not named in the FIR does not result in causing any dent in the prosecution story.

Therefore, the facts and circumstances of the case and necessity for custodial interrogation of the petitioner do not warrant grant

of discretionary equitable relief of pre-arrest bail to the petitioner since 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 arrest and 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 to find out as to from where he had bringing the contraband and where he has been selling. 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.

27.1.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No