

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

CRM-M-3565-2020 (O&M)

Date of decision: 13.07.2021

Sonam Singh @ Sonu

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr. Rakesh Gupta, Advocate for the petitioner.

Mr. Karan Garg, AAG, Haryana.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This petition for pre-arrest bail has been filed by petitioner Sonam Singh @ Sonu, an accused in FIR No.299 dated 15.12.2019, for an offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act'), registered with Police Station Mullana, District Ambala.

Briefly stated the facts of the case as per prosecution story are that, on 15.12.2019, Balwant Rai, a co-accused of the present petitioner Sonam Singh @ Sonu was apprehended by the police within jurisdiction of Police Station Mullana and he was found in possession of 1.200 kgs of poppy husk; after registration of FIR, the matter was investigated; during the course of investigation, accused Balwant Rai

disclosed that he had procured the poppy husk from the present petitioner, in that way, petitioner was nominated as an accused in this case.

Apprehending his arrest in this case, the petitioner had approached Judge, Special Court, Ambala for grant of pre-arrest bail by moving an application in that regard. His such application was however dismissed, vide order dated 22.01.2020. As such, the petitioner has approached this Court, craving for grant of similar relief, which request is being opposed by the State counsel.

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

Pre-arrest bail is a discretionary equitable relief, which is to be granted by the Court in rare and exceptional circumstances to save the innocent persons from harassment and inconvenience and not to provide protective umbrella to the criminals enabling them to avoid arrest and interrogation by the investigating agency.

Here the petitioner is said to be involved in another case under the Act registered vide FIR No.298 dated 14.12.2019, which means that he has been indulging in drug peddling and it corroborate the information furnished by accused Balwant Rai during his interrogation that he had procured the recovered poppy husk from the petitioner/accused. The contention of learned counsel for the petitioner that the petitioner has been nominated as an accused on the basis of statement of co-accused, which is inadmissible in evidence, is erroneous

since Section 30 of the Indian Evidence Act clearly provides that when more persons 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. Such type of statement can certainly be taken into consideration for the purpose of providing lead in the investigation and the petitioner cannot derive any benefit from the fact that his name is not there in the FIR and he has been named in the statement of co-accused only.

Though when the petitioner was granted interim bail with a direction to join the investigation and he is said to have done so but the State counsel on instructions has informed that petitioner has not come out with the full facts within his knowledge with regard to source from where he had procured the poppy husk and to which other persons he had supplied the same, the past transactions entered into by him, the money earned by him from drug trafficking and where he had been investing the same etc. In that way, custodial interrogation of the petitioner is required for complete and effective investigation and in case, it is denied to the investigating agency that shall leave many loopholes, lacuna and gaps in the investigation, adversely affecting the case of prosecution, which is uncalled for.

Though, the recovery in this case is quite less but the role played by the petitioner being part of the drug trafficking cannot be taken

lightly, since such type of persons indulging in drug trafficking play with lives of many innocent persons by making them take to drug consumption for small financial gains. The seriousness of the crime committed by the petitioner is not to be adjudged from small quantity of recovery of contraband but his over all role in harming the society by facilitating the drug trafficking.

Thus, in view of the detailed discussion above, the petitioner is not entitled to discretionary equitable relief of pre-arrest bail. The petition is found to be without any merit and is dismissed accordingly.

13.07.2021

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No