

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

**CRM-M-5252 of 2021
DATE OF DECISION :- February 16, 2021**

Vinod Kumar

...Petitioner

Versus

State of Haryana

...Respondent

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

Present:- Mr. Sunil Saharan, Advocate for the petitioner.

The case has been taken up through Video Conferencing.

This petition for pre-arrest bail has been filed by petitioner Vinod Kumar, an accused in F.I.R 437 dated 10.7.2019 under Sections 489C IPC (Sections 489A, 489B, 201, 120-B, 506 IPC added later on) registered with Police Station Hansi City, District Hisar.

Notice of motion.

Mr. Karan Garg, AAG, Haryana has accepted notice on behalf of State of Haryana.

Briefly stated the facts of the case as per prosecution story are that on 10.7.2019, a police party headed by ASI Feroz Khan while being present at Bus Stand Hansi in connection with patrolling and crime check had received a secret information that Rohtash son of Tek Ram wearing Kurta Payjama of white colour was coming to Hansi in a private vehicle to village Bhatol Jatan having fake currency notes with him and he would alight from the vehicle at Kali devi Mandir Chowk, Hansi so as to use the

fake currency notes as genuine and then would go towards City Hansi. Accordingly, a raid was conducted and Rohtash was apprehended. He was found to be carrying fake currency notes of Rs.2000/- denomination which were taken into police possession. Rohtash was arrested in this case.

Formal F.I.R in the case was got registered. The investigation in the case started. Rohtash was interrogated during course of which he named Virender Parshad, Vinod @ Nodi (present petitioner). Vinod @ Nodi apprehending his arrest in this case had approached the Court of Sessions at Hisar seeking pre-arrest bail. His such application was, however, dismissed by Additional Sessions Judge, Hisar vide order dated 21.9.2019, therefore, 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 petitioner and learned State counsel besides going through the record.

I find that the petition is doomed for failure. Learned Additional Sessions Judge, Hisar has given detailed reasoning while dismissing the petition. The relevant paras are being reproduced as under for ready reference :-

- “4. In the reply filed by the State, it is stated that 47 cases had been registered so far against the applicant-accused and the result of the case bearing F.I.R No. 232 dated 16.6.2002 under Sections 302 IPC, 307 IPC has not been mentioned and only three cases of NDPS Act bearing F.I.R Nos. 290/16, police station City Hansi, 466/17, police station City Hansi and 110/18 police station City Hansi are stated to be under trial and one case bearing F.I.R No. 591 dated 30.10.2018, under section 25 of the Arms Act, Police Station City Hansi is also stated to be under trial.

5. During the course of the arguments, the learned defence counsel submitted that as per statute, offence under Section 489-C is bailable but triable by the Court of Sessions. It is not understandable how the police remand of the accused Rohtash for six days was taken by the police. The accused Rohtash is stated to be in judicial custody since 17.7.19 and if there is another disclosure statement given by the accused Rohtash, it means that the Court did not grant any further police remand on that disclosure statement. The list of cases filed by the State along with the reply reveals that from the serial No. 8 to serial No. 42, all cases relate to Public Gambling Act against which 'Con' is mentioned.

6. In the present case, the applicant-accused has mentioned the offences in which he is seeking pre-arrest bail under Sections 489-C and 506 IPC but in the reply, the police has mentioned only offence under Section 489-C IPC. Since as per police reply, only offence under Section 489-C is there which is bailable and for that application under Section 438 Cr.P.C. is not maintainable. Therefore, the application of the applicant-accused for his pre-arrest bail is declined. However, it is made clear that if during investigation, the police is of the view that there is some cognizable evidence against the applicant-accused and wants to arrest him then it shall give him seven days notice before his arrest. Copy of the order be sent to SHO concerned. File of the bail application be consigned to the record room.”

I find that petitioner comes out to be hardened criminal having been involved in 47 criminal cases which include a murder case, 3 cases under NDPS Act beside under Arms Act as detailed in para No. 4 of the impugned order. Such a hardened criminal does not deserve concession of pre-arrest bail which is meant to avoid harassment and inconvenience to innocent persons and not to shield the criminals from arrest and custodial interrogation. Custodial interrogation of the petitioner is definitely required

for complete and effective investigation to recover the counter feet/fake currency notes as well as the implements used for preparing those from possession of the petitioner. It is also to be find out from where he has been receiving such notes and to which persons he had been supplying the same. In case custodial interrogation is denied to the investigating agency that shall definitely adversely effect it leaving many loopholes and lacuna in the investigation which is uncalled for. The contention of learned counsel for the petitioner that the petitioner is not named in the F.I.R and his name cropped up in statement of co-accused which is inadmissible in evidence is without any merit. Merely because the petitioner is not named in the F.I.R does not go to provide any benefit to him since the purpose of recording the F.I.R is to set criminal machinery into motion and it need not contain the detailed version of an incident. It is only during investigation that whole story unfolds as to how the criminal offences were committed and the persons who had done so and other details etc. It is wrong to say that statement of co-accused is inadmissible against the other accused. Such statement can definitely be taken into consideration for providing lead in the investigation and even otherwise Section 30 of the Evidence Act makes it admissible.

Keeping in view the discussion above, I find that petition does not call for acceptance. The same is dismissed accordingly.

(H.S. MADAAN)
JUDGE

February 16, 2021

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No