

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-5264 of 2021 (O&M)

Date of decision : 5.3.2021

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Happy Singh

.....Petitioner

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Yashpal Thakur, Advocate
for the petitioner.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

This petition for grant of pre-arrest bail under Section 438 Cr.P.C., has been filed by petitioner – Happy Singh, aged about 35 years, s/o Sukhdev Singh, resident of Ward No. 7, Indira Basi Sunam, Tehsil Sunam, District Sangrur, an accused in FIR No. 81 dated 29.3.2020, for offence under Section 21 of the NDPS Act, registered at Police Station City Sunam, District Sangrur.

Notice of motion.

At this stage, Mr. J.S. Ghuman, DAG, Punjab, has accepted

notice on behalf of the State.

Briefly stated, the prosecution story is that on 29.3.2020, within the area of Police Station City Sunam, a Police Party had apprehended Sita Rani, wife of the present petitioner and found her in possession of 21 grams of smack. On being enquired, she disclosed that her husband Happy Singh – petitioner had given her smack for the purpose of selling. In that way, petitioner is nominated in this case.

Apprehending his arrest in this case, petitioner Happy Singh, had approached Judge, Special Court, Sangrur, by filing an application for grant of pre-arrest bail. However, his such application, was dismissed by the said Court, vide order dated 13.5.2020, as such, the petitioner has knocked at the door this Court craving for the similar relief, which request is being opposed by learned State counsel.

I have heard, learned counsel for the petitioner, learned State counsel, besides going through the record and I find that the present petition is doomed for failure.

As informed by the State counsel, petitioner is involved in five more criminal cases, the details of which are as below:-

- i) FIR No. 28 dated 29.3.2016 u/s 21/61/85 NDPS Act, PS
City Sunam (Acquitted on 9.11.2017)
- ii) FIR No.72 dated 14.8.2017, u/s 21/29/61/85 NDPS Act, PS
Sadar, Sunam (Convicted on 11.3.2019)
- iii) FIR No. 61 dated 1.7.2019 u/s 21/61/85 NDPS Act, PS

Cheema (UT)

iv) FIR No. 127 dated 19.7.2019 u/s 21/61/85 NDPS Act, PS

City Sunam (UT)

v) FIR No. 44 dated 18.2.2020 u/s 21/61/85 NDPS Act, PS

City Sunam (UT)

That means that the petitioner is a habitual criminal. It is well settled law that pre-arrest bail is a discretionary equitable relief which is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from arbitrary arrests and not to screen the criminals from arrest and custodial interrogation.

The custodial interrogation of the petitioner is sought by the Investigating Agency, to find out as to from where he had procured the contraband, which he had supplied to his wife Sita Rani for sale. Details of other transactions entered into by him in that regard are also to be found. Admittedly, custodial interrogation of the accused is more elicitation oriented and a person couched in the comparative safety of pre-arrest bail would certainly not come up with all the facts within his knowledge. This has been so observed in *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R. (Criminal) 268.*

The custodial interrogation of the petitioner in this case is found to be necessary for complete and effective investigation. In case the custodial interrogation is denied to the Investigating Agency, that shall leave many loose ends, gaps and lacuna in the investigation, adversely affecting the same and the police may not be able to get

further lead and reach the main supplier

Therefore, the petition is found to be without any merit
and the same is dismissed accordingly.

5.3.2021
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No