

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

CRM-M-6452-2021

Date of decision:-11.2.2021

Madhusudan

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Aditya Sanghi, Advocate
for the petitioner.

Mr.Tanuj Sharma, AAG, Haryana.

H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Madhusudan, aged about 30 years, resident of village Shahpur Begu, Tehsil and District Sirsa, an accused in FIR No.197 dated 31.8.2019, under Section 21 of NDPS Act, registered with Police Station Sirsa Sadar, District Sirsa.

Briefly stated, the prosecution story is that on 31.8.2019, a police party headed by ASI Ashok Kumar while being there near Royal Service Station village Shahpur Begu during the course of patrolling

spotted a vehicle white in colour parked on left side of the road; a boy was sitting on the driver seat of the car; on being asked he disclosed his name as Madhusudan (present petitioner); from dash board of the car, a polythene bag having some contents was lying, which on being examined was found to contain heroin weighing 6.75 gms.; all of sudden Madhusudan locked his car from inside and succeeded in speeding away the car bearing registration No.HR24/4226. Formal FIR was registered. Investigation in the case started. Efforts were made to apprehend the accused but those did not prove to be successful. Proceedings for declaring Madhusudan as proclaimed offender are stated to be pending in the Court of Judicial Magistrate Ist Class at Sirsa.

Apprehending his arrest in this case, the present petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, which was assigned to learned Additional Sessions Judge, Sirsa. However, his such request was declined by learned Additional Sessions Judge, Sirsa vide detailed order dated 2.2.2021. As such, the present petitioner has approached this Court by way of filing the instant petition asking for the similar relief.

Notice of the petition was issued to respondent – State. Mr.Tanuj Sharma, AAG, Haryana 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.

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 arrest and custodial interrogation.

The petitioner is specifically named in the FIR and registration number of his car is also given. Here the conduct of the petitioner clearly disentitles him to grant of anticipatory bail. When the police had found polythene bag containing contraband from the dash board of his car, petitioner/accused instead of rendering any explanation in that regard opted to flee from the spot in the car by speeding it away. That goes to show the guilty intention of the accused. Even otherwise, accused sitting on the driver seat of the car with contraband recovered from dash board of the car that goes to point out towards conscious possession of the contraband on the part of the petitioner/accused. Though the quantity of the contraband recovered is not on very high side but then conduct of the petitioner clearly disentitles him to grant of discretionary equitable relief of pre-arrest bail.

Furthermore, the custodial interrogation of the petitioner/accused is required for complete and effective investigation to find out the source from where he had procured the contraband and so also where he was to deliver the same. 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.

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.

Finding no merits in the petition, the same stands dismissed.

11.2.2021

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No