

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

CRM-M-6463-2021 (O&M)

Date of decision: 09.03.2021

Hanuman

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr. D.S. Virk, Advocate for the petitioner.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition for pre-arrest bail has been filed by petitioner Hanuman, an accused in FIR No.434 dated 20.12.2020, for an offence under Section 17 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act'), registered with Police Station City Mandi Dabwali, District Sirsa.

Notice of motion.

Mr. Tanuj Sharma, AAG, Haryana, accepts notice on behalf of the respondent-State.

Briefly stated the prosecution story is that, on 20.12.2020, a police party headed by SI Data Ram had apprehended one Avinash @ Billa son of Om Parkash within the jurisdiction of Police Station City Mandi Dabwali and he was found to be in possession of 120 gms

of opium contained in a polythene, which was actually recovered from visor of the motorcycle; he was formally arrested in this case; the contraband and motorcycle were taken into police possession; FIR was registered; the investigation in the case progressed; Avinash @ Billa was interrogated, during the course of which, he disclosed that he had purchased the contraband from the present petitioner.

After being nominated in this case, petitioner/accused Hanuman had approached the Courts of Sessions at Sirsa by moving an application for grant of pre-arrest bail. His such application was assigned to Addl. Sessions Judge, Sirsa, who vide order dated 05.02.2021, dismissed the same. Feeling aggrieved, 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. Though, the recovery of contraband effected from co-accused of the present petitioner comes within the definition of non-commercial quantity but the petitioner is stated to be involved in two more criminal cases under the Act; that means he is a habitual criminal and engaged in drug

trafficking. Custodial interrogation of the petitioner is necessary to find out from where he had been procuring the contraband and to which persons, he had been supplying the same and where he had been investing/adjusting the drug money. 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. If the petitioner is granted pre-arrest bail and the police questions him on these aspects in all probability, he will come with a straight face, saying that he has nothing to do with the drug trafficking and co-accused Avinash @ Billa has wrongly named him, then the investigation will come to a dead end and the investigating agency would not be able to gather incriminating evidence against him to show his involvement in the drug trafficking and further to find out from where he had been procuring the contraband. If the drug cartel is to be smashed and the investigating agency is to reach the person at the top of the cartel, controlling the drug business, then the custodial interrogation of the intermediaries and other persons in the hierarchy is a must. Therefore, custodial interrogation of the petitioner is found to be necessary for complete and effective investigation. In case, the same is denied to the investigating agency that shall leave many gaps, loopholes and lacuna, adversely affecting the investigation, which is

uncalled for.

The petition is found to be without any merit and is dismissed accordingly.

09.03.2021

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(H.S. MADAAN)
JUDGE

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