

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

CRM-M-9544-2021(O&M)

Date of decision:-31.3.2021

Om Parkash @ Jimmi

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Arpandeep Narula, Advocate
for the petitioner.

Mr.Tanuj Sharma, AAG, Haryana.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Om Parkash @ Jimmi, aged about 27 years, resident of House No.506, J.J. Colony, Sirsa, an accused in FIR No.88 dated 9.2.2021, under Section 21 of NDPS Act, registered with Police Station City, Sirsa.

Briefly stated, the prosecution story is that on 9.2.2021, a police party led by ASI Jagtar Singh while being present in the area of

Street No.1, Parmarth Colony, Begu Road, Sirsa, had apprehended one Gurpreet Singh son of Malkiat Singh, resident of Dhani Ram Singh Pura Bharolianwali, presently residing at Gali No.1 Parmarth Colony, Sirsa riding Activa scooter and recovered 6 grams 50 milligrams heroin from him. He was arrested in this case. Formal FIR was registered. While being interrogated, Gurpreet Singh disclosed that he had purchased the recovered heroin from Om Parkash @ Jimmi (present petitioner).

After being nominated in this case, apprehending his arrest, 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 19.2.2021. As such, the present petitioner has approached this Court by way of filing the instant petition asking for the similar relief, which request is being opposed by the State counsel.

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.

As per the written reply filed by the State in para No.5, it is mentioned that petitioner is involved in 12 more criminal cases as per details below:

(i) FIR No.422 dated 12.5.2018, U/S 21 NDPS Act and 13-A

Gambling Act, Police Station City, Sirsa.

(ii) FIR No.509 dated 1.9.2017 U/S 21 NDPS Act, Police Station City, Fatehabad.

(iii) FIR No.122 dated 23.2.2016 U/S 13-A Gambling Act, Police Station City, Sirsa.

(iv) FIR No.474 dated 2.11.2015, U/S 20, 27-A NDPS Act, Police Station Rania(Sirsa).

(v) FIR No.442 dated 23.7.2019 U/S 20-B NDPS Act, Police Station Sadar, Fatehabad.

(vi) FIR No.777 dated 8.8.2018 U/S 21 NDPS Act, Police Station City, Sirsa;

(vii) FIR No.139 dated 19.2.2017, U/ 13-A Gambling Act, Police Station City, Sirsa (in this case, the petitioner/accused has been convicted and fined Rs.200/- vide judgment dated 3.4.2017).

(viii) FIR No.678 dated 11.9.2016 U/S 13-A Gambling Act, Police Station City, Sirsa (In this case, petitioner/accused has been convicted and sentenced vide judgment dated 24.10.2016).

(ix) FIR No.01 dated 1.1.2016 U/S 13-A Gambling Act, Police Station City, Sirsa.

(x) FIR No.773 dated 10.10.2015, U/S 13-A Gambling Act, Police Station City, Sirsa.

(xi) FIR No.370 dated 18.5.2015, U/S 13-A Gambling Act, Police Station City, Sirsa.

(xii) FIR No.1198 dated 14.12.2014, U/S 13-A Gambling Act, Police Station City, Sirsa (In this case, the petitioner/accused has been

acquitted vide judgment dated 5.11.2015).

It means that the petitioner/accused is a habitual criminal. Therefore, on account of past police record of the petitioner, he is not entitled to concession of anticipatory bail.

The contention of learned counsel for the petitioner that he is not named in the FIR does not get the guilt of the accused diluted since when arrested with contraband, Gurpreet Singh had stated that he had purchased it from the present petitioner/accused. Such disclosure statement of co-accused can certainly be taken into consideration for providing lead in investigation and even during trial it is admissible under Section 30 of the Indian Evidence Act.

Furthermore, the custodial interrogation of the petitioner/accused is required for complete and effective investigation to find out as to from where he had been procuring the contraband and to which persons he had been supplying the same. This is necessary to reach the persons running the drug cartel in order to suppress the drug trafficking. 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.

Therefore, the facts and circumstances of the case do not call for acceptance of the petition. The same is doomed for failure and is dismissed accordingly.

31.3.2021

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No