

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

CRM-M-9431-2021(O&M)

Date of decision:-5.4.2021

Sukhwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.Sumeet Puri, Advocate
for the petitioner.

Mr.J.S. Ghuman, DAG, Punjab.

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 – Sukhwinder Singh, aged about 25 years, resident of village Rampur Gujran, Tehsil Sunam, District Sangrur, an accused in FIR No.84 dated 16.9.2020, under Sections 22 and 29 of NDPS Act, 1985, registered with Police Station Dharamgarh, District Sangrur.

Briefly stated, the prosecution story is that on 16.9.2020, a

police party headed by ASI Narinder Singh while on patrol and checking duty present at bus-stand Jakhepal within jurisdiction of Police Station Dharamgarh, District Sangrur received a secret information that Partap Singh son of Jang Singh, resident of village Jolian, P.S. Bhawanigarh along with his brother-in-law has been in habit of selling intoxicant tablets and they were selling intoxicant tablets in the area of P.S. Dharamgarh on their motorcycle make Super Splendor without number and were going towards Sunam from village Jakhepal after selling the intoxicant tablets and they could be apprehended along with such tablets. Information being reliable, ruqa was sent to police station for registration of the case and formal FIR was recorded. A *NAKA* was laid. Two persons were spotted going on motorcycle without number in the area of village Mardkhera. One heavy *JHOLA* (bag) was kept in between them. The person driving the motorcycle was identified as Partap Singh by ASI Narinder Singh earlier known to him. The pillion rider on the motorcycle threw the *JHOLA* on the road, as a result of which strips of intoxicant tablets got scattered on the road, whereas both the riders managed to run away, leaving the motorcycle behind. The strips of intoxicant tablets make Clovidol-100SR were counted, which came out to 1,000, total recovered tablets being 10,000/-. The contraband and the motorcycle were taken into police possession. The investigation of the case was started, during the course of which one Kulwant Singh son of Bhajan Singh got his statement recorded with the police that on 20.9.2020, Partap Singh along with his brother-in-law Sukhwinder Singh (present petitioner) had come to his house pleading for help in the instant case but keeping in view the welfare

of youth of State of Punjab, he had informed the police. In that way, petitioner Sukhwinder Singh was nominated in this case.

After being nominated in this case, apprehending his arrest, the present petitioner had approached Judge, Special Court, Sangrur seeking grant of pre-arrest bail by filing an application, however, his such application was dismissed by learned Judge, Special Court, Sangrur vide detailed order dated 12.2.2021. 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.J.S. Ghuman, DAG, Punjab appearing on behalf of respondent – State is opposing the petition.

I have heard learned counsel for the parties besides going through the records.

Though the petitioner is not named in the FIR but during the course of investigation, his identity got revealed as Sukhwinder Singh, who was pillion riding the motorcycle being driven by Partap Singh and who had thrown away the *JHOLA* containing the contraband.

Furthermore, the recovered contraband amounts to commercial quantity attracting rigor of Section 37 of the Act, which provides that in case of recovery of contraband amounting to commercial quantity, when the petition for bail is opposed by the Public Prosecutor, the Court shall not release the person on bail without recording satisfaction that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence

while on bail. Keeping in view the facts and circumstances of the case, I do not see any reason to record satisfaction that there are reasonable ground for believing that petitioner is not guilty of that offence or that he has not committed any offence. The recovered contraband is of huge quantity and if the petitioner/accused along with his co-accused Partap Singh had been successful in supplying those tablets to the drug addicts that would have seriously affected their health adding to the menace of drug addiction among youth of the State.

Furthermore, the custodial interrogation of the petitioner/accused is required for complete and effective investigation to find out as to from where the contraband had been procured and to which persons, it was to be supplied, the previous dealings, in which the present petitioner had indulged etc. 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, since the investigation would be curtailed to a great extent and the investigating agency would not be able to reach the bottom of the things to find out the material facts and then to act against the persons running the drug racket in order to curb the alarming extent of drug abuse and drug addiction amongst the people of the State.

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.

5.4.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No