

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

CRM-M-13092-2021
Date of decision:-6.7.2021

Pardeep

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Raman Chawla, Advocate
for the petitioner.

Mr.Karan Garg, 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 – Pardeep, aged about 31 years, an accused in FIR No.100 dated 27.2.2021, under Sections 21(b) and 27-A of NDPS Act, 1985, registered with Police Station Hisar City, Hisar.

Briefly stated, the facts of the case as per the prosecution

story are that on 27.2.2021, accused Bijender Singh was arrested by the police of Police Station City, Hisar and he was found to be in possession of 10 gms. of heroin. Formal FIR in the matter was recorded. Investigation in the case started, during the course of which, Bijender Singh – accused disclosed that the contraband recovered from him had been supplied by the present petitioner Pardeep, in that way Pardeep was nominated as an accused in this case.

After being nominated in this case, apprehending his arrest, the present petitioner had approached the Court of Sessions at Hisar seeking grant of pre-arrest bail by filing an application, which was assigned to Additional Sessions Judge, Hisar. However, his such application was dismissed by the said Court vide detailed order dated 15.3.2021. 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.

Though not named in the FIR, the petitionr was nominated as supplier of the contraband in the disclosure statement of Bijender Singh.

As regards the contention of learned counsel for the petitioner that the petitioner has been nominated on the basis of disclosure statement of co-accused, which is inadmissible in evidence, such contention is not correct.

Section 30 of the Indian Evidence Act provides that when

more person than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and other of such persons is proved, the Court may take into consideration such confession as against such other person as well as against the person who makes such confession. Such disclosure statement of co-accused can certainly be taken into consideration for providing lead in the investigation.

In terms of the reply filed on behalf of the State, the petitioner is involved in two more case as per details below:

- (i) FIR No.460 dated 17.7.2020, under NDPS Act, Police Station City, Hisar.
- (ii) FIR No.87 dated 27.1.2009, under Sections 457 and 380 IPC, Police Station City, Hisar.

One of the case in which the petitioner is already booked is under NDPS Act that goes to show that he has got past criminal record, which points out towards his involvement in the drug peddling.

The custodial interrogation of the petitioner is definitely required for complete and effective investigation to find out from where he had been procuring the contraband and to which persons he had been supplying the same as well as where the proceeds of the drug peddling have been kept/invested. 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.

It needs to be mentioned here that besides offence under

Section 21-B, the petitioner has been booked for offence under Section 27-A of the Act, which attracts bar of Section 37 of the NDPS Act, providing that no person accused of an offence punishable for offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity shall be released on bail where the Public Prosecutor opposes the application, unless the court is satisfied 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.

Here I do not see any reason to record the requisite satisfaction keeping in view the past criminal record of the petitioner and other facts and circumstances of the case. Though Section 37 provides bar to release of an accused on regular bail but this provision also comes into play in case of grant of pre-arrest bail, scope of which is much less.

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.

It may be mentioned here that nothing discussed hereinabove shall have any bearing on the merits of the case.

6.7.2021

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No

(H.S.MADAAN)

JUDGE