

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

CRM-M-11101-2020(O&M)

Date of decision:-4.10.2021

Harjinder Singh @ Babbu

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: None for the petitioner.

Mr.R.S.Khaira, AAG, Punjab.

H.S. MADAAN, J.

This second petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Harjinder Singh @ Babbu, an accused in FIR No.225 dated 24.8.2019, under Section 22 of NDPS Act, registered with Police Station Lehra, District Sangrur. The first petition filed by the petitioner was withdrawn by him and was dismissed as withdrawn vide order dated 26.2.2020.

Briefly stated, the facts of the case as per the prosecution story are that on 24.8.2019, a police party led by ASI Gurlal Singh

intercepted a motorcycle being driven by accused Harjinder Singh @ Babbu and when accused had tried to turn back the motorcycle, a plastic bag hanging from the handle of the motorcycle fell down and strips of intoxicating tablets make Clovidol – 100 SR 400 in number fallen out of the plastic bag. The petitioner/accused managed to run away from the spot. The recovered tablets were taken into possession as per rules. After registration of the FIR, the investigation in the case started.

Apprehending his arrest, the present petitioner had approached the Court of Sessions at Sangrur by filing an application for grant of pre-arrest bail, but he was unsuccessful in getting a favourable order and his application for pre-arrest bail was dismissed by Judge, Special Court, Sangrur, vide order dated 3.9.2019. Thereafter, the petitioner/accused had approached this Court earlier by way of filing CRM-M-38368-2019 but subsequently he withdrew the same on 26.2.2020. Now the present petitioner has again approached this Court by way of filing the instant petition asking for the similar relief, which request is being resisted by the State counsel.

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

This is a second petition for grant of pre-arrest bail, which is not maintainable in view of the judgment **G.R. Ananda Babu Versus The State of Tamil Nadu & Anr.** arising out of SLP(Crl.) No.213 of 2021 passed by the Apex Court. No reason has been given for filing of the second petition for pre-arrest bail. As a matter of fact, the local police has shown laxity and casual approach in the matter inasmuch as though the

FIR was registered on 24.8.2019 but till date the accused has not been arrested despite passage of more than two years and he is roaming around freely. Therefore, the petition is bound to fail on the point of maintainability alone. However, on merits also, the petitioner does not have any case. He is specifically named in the FIR. His parentage and residential address are also given. His distinct features also find mentioned in the FIR. On seeing the police party, he had managed to escape, in that way, he is an absconder. An absconder is certainly not entitled to discretionary relief of anticipatory bail. When the police party tried to apprehend him, he had turned back his motorcycle from the handle of which a polythene bag was hanging which fell down showing intoxicating tablets. The recovery effected is quite considerable.

Furthermore, the petitioner/accused is stated to be involved in two more criminal cases including a murder case registered vide FIR No.122 dated 13.5.2020, under Sections 302, 427, 148 IPC etc., Police Station Lehra, District Sangrur and another case bearing FIR No.109 dated 1.7.2018, under Sections 323, 341 IPC etc, registered with the same police station. The registration of such cases goes to show that the petitioner has criminal bent of mind. Such type of person does not deserve concession of pre-arrest bail which 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.

Furthermore, the custodial interrogation of the petitioner/accused is required for complete and effective investigation so

as to find out from where he had brought such tablets and where he intended to supply 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 uncalled 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.

4.10.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No