

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 20440 of 2021 (O&M)

Date of decision : 5.7.2021

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Sahab Singh @ Sabbi

.....Petitioner

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. S.S. Gill, Advocate for the petitioner

Mr. Gaurav Bansal, AAG, Harayana.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

Reply filed by the State be taken on record.

This petition for pre-arrest bail under Section 438 Cr.P.C., has been filed by petitioner – Sahab Singh @ Sabbi, aged about 39 years, s/o Darshan Singh, resident of Dera Bachgawan, PS Sadar Kurukshetra University, Kurukshetra, District Kurukshetra, being accused in case FIR No. 97 dated 23.3.2021 for offences under Section 21 of the NDPS Act, registered at Police Station Kurukshetra University, Kurukshetra.

In nutshell, the prosecution story is that, on 23.3.2021, accused Satnam singh was arrested by the police of Police Station Kurukshetra University, Kurukshetra who was found in possession

of 217 grams of heroin/smack. That Satnam Singh happens to be brother of present petitioner Sahab Singh @ Sabbi, who disclosed during investigation that he alongwith his brother Sahab Singh @ Sabbi are involved in drug peddling, as such the present petitioner was nominated in this case.

Apprehending his arrest in this case, petitioner – Sahab Singh @ Sabbi, had approached the Court of Sessions at Kurukshetra, craving for grant of pre-arrest bail. His such application, which was assigned to Additional Sessions Judge, Kurukshetra, was dismissed vide order dated 12.5.2021. Therefore, he has knocked at the door of this Court, by way of filing the present petition, praying for grant of similar relief, which request is being opposed by learned State counsel.

I have heard, learned counsel for the petitioner, learned State counsel, besides going through the record.

Pre-arrest bail is a discretionary equitable relief, which is not to be granted in routine, but in exceptional circumstances. It is meant to save the innocent persons from harassment and inconvenience and not to shield the criminals from arrest and custodial interrogation.

As per reply filed by the State, petitioner is involved in 6 more criminal cases, as per details below :-

1. FIR No. 41 dt. 8.5.2017, u/s 21/61/85 NDPS Act, PS

Jhansa, Kurukshetra – acquitted vide order dated 20.4.2019

2. FIR No. 128 dt. 12.05.2004 u/s 457, 380 IPC, PS City

Kaithal – acquitted vide order dated 12.1.2008

3. FIR No. 392 dt. 1.10.2004, u/s 25/54/59 of Arms Act, PS

City Kaithal – acquitted vide order dated 3.7.2009.

4. FIR No. 45 dt. 31.1.2010 u/s 15/61/85 NDPS Act, PS Sadar

Thanesar– convicted.

5. FIR No. 380 dt. 11.10.1995, u/s 15/61/85 NDPS Act, PS

Sadar Thanesar – acquitted vide order dated 6.1.1997

6. FIR No. 163 dt. 3.6.2003, u/s 323, 325 IPC, PS Sadar

Thanesar– acquitted vide order dated 17.5.2007

Although in 5 cases, he is shown to have been acquitted but that acquittal does not mean giving of clean chit to him. As per the basic principals of criminal law applicable in India, the prosecution is required to prove its charge against the accused beyond a shadow of reasonable doubt and this burden of proof on the prosecution never shifts and rather it remains stationary on it. The benefit of doubt goes to the accused. Many a times, though considerable incriminating evidence is there against the culprit, who is made to face trial but for various reasons including contradiction between statements of the witnesses due to forgetfulness, on account of passage of time, resulting in their deviating from the statements recorded earlier. Some of the prosecution witnesses not appearing in the Court, for various reasons, some defects carried out in the investigating and for other technical reasons, an accused manage to earn acquittal but the fact remains that the accused was booked in a criminal case of particular nature, on investigation sufficient evidence was found by

the Investigating Agency to connect him with the crime/offence, he was sent up to face trial, though the trial ended in his acquittal. Therefore, involvement of the present petitioner in 6 criminal cases, 3 of them under NDPS Act, 2 under various provisions of IPC and 1 under the Arms Act, points out towards his shady past and in one case of the NDPS Act, bearing FIR No. 45 dated 31.1.2010, for offence under Section 15 of the NDPS act, Police Station Thanesar, he is shown to have been convicted.

A person with such type of record, is certainly not entitled to be granted the protective cover of pre-arrest bail. It has to be taken note of that his real brother Satnam Singh had been found in possession of contraband, who on interrogation, had disclosed involvement of the present petitioner in drug peddling. This statement can certainly be taken into consideration for providing lead in the investigation and past criminal record of the petitioner also points out towards his indulging in drug peddling.

The custodial interrogation of the petitioner is required to find out the details of his involvement in drug peddling i.e. number of transactions carried out by him, the source from where the contraband used to be procured and the persons to whom the same was supplied as well as, the monetary gains made therefrom and where the money so earned was invested. In case the custodial interrogation of the petitioner is denied to the investigating agency, that would leave many lacuna, loopholes and gaps in the investigation, adversely affecting the prosecution case, which is not

called for.

As such the petition lacks merit and is dismissed accordingly.

However, nothing discussed above shall have any bearing on the merits of the case.

5.7.2021
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes/ No
Whether reportable	Yes/ No