

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

CRM-M-24704-2021

Date of decision:-3.8.2021

Amarjeet Singh

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.D.S. Virk, Advocate
for the petitioner.

Mr.Gaurav Bansal, 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 – Amarjeet Singh, aged about 48 years, resident of Ratta Khera Lukman, Tehsil and District Kaithal, an accused in FIR No.157 dated 10.6.2021, under Sections 15-B and 29 of NDPS Act, registered with Police Station Cheeka, District Kaithal.

In nutshell, the prosecution story is that on 10.6.2021 in pursuance of secret information, one Kaka Singh was apprehended by the police in the area of Police Station Cheeka and he was found in possession of 11 kgs. of poppy-husk. The recovered contraband was seized and accused was arrested in this case. After registration of the formal FIR, the matter had been investigated. Accused Kaka Singh was interrogated, during the course of which, he disclosed that he had purchased the recovered contraband from the present petitioner/accused Amarjeet Singh for Rs.57,600/-. The call record of mobile phone of the petitioner and

Kaka Singh was obtained, which reflected frequent conversation between two of them prior to the recovery from Kaka Singh.

After being nominated in this case, apprehending his arrest, the present petitioner had approached Special Judge (NDPS Act)/Vacations Judge, Kaithal seeking grant of pre-arrest bail by filing an application, however, his such application was dismissed by that Court vide detailed order dated 23.6.2021. 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 resisted by the State counsel.

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

Learned counsel for the petitioner has contended that petitioner was named in the disclosure statement of co-accused Kaka Singh, which is not admissible. As regards Section 30 of Evidence Act, he had submitted that it is a weak type of evidence. According to the learned counsel for the petitioner, there is no other case against the present petitioner and main accused Kaka Singh has since been granted concession of regular bail and since the petitioner is ready and willing to join the investigation, he be given an opportunity to do so by way of acceptance of the present petition.

Whereas this request is being opposed by the State counsel vehemently contending that the allegations against the present petitioner are grave and serious being supplier of the contraband and custodial interrogation of the petitioner is essential to find out the role played by the present petitioner in the drug peddling and to unearth the drug racket.

Therefore, the petition be not allowed.

After hearing the rival contentions, I find that though petitioner is not named in the FIR and his name cropped up during the interrogation of co-accused Kaka Singh, who disclosed that he had purchased the recovered contraband from Amarjeet Singh, present petitioner, in that way the present petitioner is required to be interrogated in custody to find out the complete factual position with regard to the source from where he had been procuring the drugs and the persons to whom he had been supplying the same; the money earned by him from the illegal drug trafficking and the investments made by him of the said money and to effect the recovery of Rs.57,600/-, the money said to have been paid by Kaka Singh to the present petitioner for purchase of recovered contraband. Merely by allowing the petitioner to join the investigation is not going to serve the purpose much since the petitioner couched in comparative safety of interim pre-arrest bail is not likely to disclose true facts within his knowledge since it is human instinct to avoid saying anything, which might prove to be incriminating qua that person and land him in trouble making him liable for criminal offences. The custodial interrogation is much more productive and elicitation orientated resulting in effective investigation.

The drug trafficking is rising at an alarming rate in this region, which has ruined the lives of young men and women. Drug peddlers for a small monetary consideration make the youth to use drugs for a short excitement/kick. Such type of drug peddlers need to be dealt with sternly and firmly otherwise they would spread their tentacles

rapidly, make more and more persons take to drugs ruining their health and imperilling their family lives, resulting in the social structure getting torn and weakened and no misplaced sympathy can be shown to them lest that should prove to be counter productive encouraging more people to take to path of crime, in the process, the rule of law getting a battering, which is uncalled for.

Furthermore, 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.

The contention of learned counsel for the petitioner that the disclosure statement of co-accused is not admissible, is misconceived. Though the name of the petitioner has figured in the case on the basis of disclosure statement of his co-accused but that disclosure statement can certainly be taken into consideration since it provides lead in the investigation.

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.

Furthermore, the naming of the petitioner as supplier of the contraband to Kaka Singh and his being part of the drug cartel is fortified from the mobile phone call record of the petitioner, copy of which has

been attached with the written reply by the State as Annexure R-2, that goes to show that there has been frequent telephonic conversations between the present petitioner and Kaka Singh before recovery of contraband from Kaka Singh. The petitioner is stated to be involved in a case FIR No.86 dated 8.4.1987 under Section 61 of Punjab Excise Act, P.S. Gulla and it is so mentioned in para No.3 of the order passed by Special Judge (NDPS Act)/Vacations Judge, Kaithal rejecting the application for grant of pre-arrest bail filed by the petitioner.

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.

3.8.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No