

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

CRM-M-20997-2020(O&M)

Date of decision:-5.4.2021

Amarjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.Sourabh Arora, 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 – Amarjit Singh, aged about 43 years, resident of village Harsi, Post Office Thanda, Tehsil Dashuya, District Hoshiarpur, an accused in FIR No.202 dated 24.6.2020, under Sections 15 and 18 of NDPS Act, 1985 and Section 61 of Punjab Excise Act, 1914, registered with Police Station City, Faridkot, District Faridkot.

In nutshell, the prosecution story is that petitioner/accused

was arrested in case FIR No.05 dated 23.6.2020 for the offences under Sections 7 and 12 of Prevention of Corruption Act, 1988, registered with Police Station Vigilance Bureau, SAS Nagar (Mohali) on 23.6.2020. On 24.6.2020, his residential premises were searched, which resulted in recovery of 400 gms. of poppy husk, 60 gms. of opium and 16 bottles of liquor. At that time, the petitioner/accused was in police custody in FIR No.05 dated 23.6.2020 aforesaid. The contraband was taken into police possession and formal FIR in the matter was recorded.

Apprehending his arrest, the present petitioner had approached Judge, Special Court, Faridkot seeking grant of pre-arrest bail by filing an application, however, his such application was dismissed by learned Judge, Special Court, Faridkot vide detailed order dated 22.7.2020. As such, the present petitioner has approached this Court by way of filing the instant petition asking for the similar relief, which 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 there is no evidence to show that petitioner/accused was in possession of the premises from which the recovery of poppy husk, opium and liquor was effected; no rent note etc. was taken into police possession by the investigating agency during the investigation. Therefore, the petitioner cannot be connected with the recovery.

On the other hand, learned State counsel has contended that the premises in question where the petitioner was residing i.e. R.O. Wali

Gali, Mai Godri Sahib, Faridkot is owned by Kulwant Singh residing in Australia and during the investigation, the police has recorded statements of witnesses in that regard. It being so, the absence of any rent note does not make any difference.

After hearing the rival contentions of the parties, I find that it is a matter of common knowledge that in this region while taking a house on rent, mostly the settlement is arrived at orally and it is in rare cases that some rent note or rent deed is executed. Furthermore, once it comes out out that it was the petitioner/accused, who had been residing in the premises in question from where the recovery had been effected, it is for him to render explanation for the same. Merely because, the recovery was not got effected in presence of petitioner/accused does not lessen the severity of the crime. The petitioner/accused comes out to be habitual criminal being involved in case FIR No.05 dated 23.6.2020 for the offences under Sections 7 and 12 of Prevention of Corruption Act, 1988, registered with Police Station Vigilance Bureau, SAS Nagar (Mohali).

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/consumed. 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.

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

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(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**