

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

CRM-M-28507-2021
Date of decision:-6.8.2021

Annu @ Anil

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Kamal Chaudhary, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

Case taken up through video conferencing.

Reply filed on behalf of respondent – State is taken on
record.

This petition under Section 438 Cr.P.C. for pre-arrest bail has
been filed by the petitioner – Annu @ Anil, aged about 45 years, resident
of House No.3-A/147, NIT Faridabad, an accused in FIR No.192 dated
4.6.2021, under Sections 21 and 29 of NDPS Act, 61 of Excise Act,

Section 51 of Disaster Management Act, Section 77 of Juvenile Justice (Care and Protection of Children) Act, 2015 and Section 188 IPC, registered with Police Station SGM Nagar, Faridabad.

Briefly stated, the facts of the case as per the prosecution version are that on receipt of a secret information that petitioner/accused Annu @ Anil and Chunni Lal had been selling smack through small kids, police from Police Station SGM Nagar, Faridabad conducted a raid at disclosed place of Rahul Colony and apprehended three boys, namely, Pawan alias Nikhil, Suraj and Aman along with Deepak alias Bithal. On seeing the police party, all of them tried to run away after throwing small pouches from their pockets but they were apprehended. During checking a pouch of white colour, which was being carried by Deepak alias Bithal besides 31 nips of country-made liquor marka 'Mastana' were recovered. The pouches thrown by minor boys were picked up from the spot and were found to contain smack. The minor boys disclosed that they were selling the smack at the asking of present petitioner Annu alias Anil and Chunni Lal. A boy, namely, Aman disclosed that he had been collecting the sale proceeds of smack from Pawan alias Nikhil and Suraj. The personal search of all the boys was conducted as per law. An amount of Rs.4,350/- recovered from the possession of Aman was seized. The weight of the recovered pouches containing smack came to be 8 gm 500 mg. and it was taken into possession. After registration of the formal FIR, the investigation in the case started.

On being nominated, apprehending his arrest, the present petitioner had approached the Court of Sessions at Faridabad by filing an

application for grant of pre-arrest bail, which was assigned to Additional Sessions Judge, Faridabad, who vide a detailed order dated 15.7.2021 dismissed the same. 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.

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 allegations against the petitioner are very grave and serious that he had made boys of very young age, who were juveniles, to indulge in drug peddling, in that way, leading them to path of crime, ruining their lives and lives of their family members. Such type of act and conduct on the part of the petitioner needs to be taken with all the seriousness since the increased drug peddling is posing a big social problem affecting the health and lives of the youth, who are tempted to take to drugs for small excitement and kick. The drug addiction and drug abuse has assumed alarming proportions unless the persons indulging in drug trafficking are dealt with firmly and strictly. The problem is bound to increase. From the written reply filed by the State, it comes out that petitioner/accused is involved in as many as 32 criminal cases, most of the cases being under Punjab Excise Act, 1914 and he having been convicted and sentenced in majority of those cases, whereas earning acquittal in a

few and some other cases are shown to be pending. He is reflected to be involved in cases under Gambling Act also besides one case under Arms Act and provisions of IPC and four more cases under various provisions of IPC. Thus the petitioner/accused comes out to be a habitual offender and a hardened criminal. The anticipatory bail is not meant to be granted to such type of persons.

Although learned counsel for the petitioner/accused had stated that the recovery in this case is quite small and petitioner has no concern with drug peddling and one of the boys from whom the recovery effected, namely, Aman furnished an affidavit that he had not named the petitioner in the present case but had named another person, namely, Umesh. But that affidavit is not of much value, rather it goes to show that petitioner is trying to tamper with the prosecution evidence while keeping away from joining the investigation.

Furthermore, the custodial interrogation of the petitioner/accused is required for complete and effective investigation to find out from where he had been procuring the contraband, to which persons he had been supplying the same and which young boys he had employed for the purpose of sale of drugs and what amount he had been paying to them etc. 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.

6.8.2021

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No