

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

203

CRM-M-26343-2020.

Date of Decision: 25.01.2021.

Gurwinder Singh

....Petitioner.

Versus

State of Punjab and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Ms. Khushbir K. Bhullar, Advocate for petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This petition under Section 438 Cr.P.C. is for grant of pre-arrest bail to petitioner in case FIR No.82 dated 06.07.2020 under Section 21 of NDPS Act, registered at Police Station Special Task Force, Mohali, District SAS Nagar.

Learned counsel for the petitioner *inter alia* contends that the allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. She further urges that due to previous enmity between Balraj Kaur, mother of petitioner and co-accused Paramjit Kaur @ Bhola over a property dispute, petitioner has been roped in as accused on the basis of disclosure statement of co-accused Paramjit Kaur @ Bhola. She further urges that petitioner was neither arrested on the spot by the Police nor he was present on the alleged address where alleged

even otherwise Police did not comply with the statutory provisions of Sections 42 and 50 of NDPS Act and further conducted the search of rented accommodation of petitioner in the absence of independent witness and Gazetted Officer and as such alleged recovery of 333 grams of heroin and alleged drug money of more than Rs.3,00,000/- is planted one. She further urges that though petitioner has no nexus whatsoever with the alleged offence, he is ready to join investigation as and when called upon to do so by the Investigating Agency, thus, concession of pre-arrest bail may be extended to him.

On the other hand, learned State counsel while opposing the cause of petitioner has vehemently argued that as disclosed by co-accused Paramjit Kaur, as she used to purchase contraband from petitioner-Gurwinder Singh and his mother-Balraj Kaur @ Pinki, then raid was conducted at the rented accommodation bearing House No.420-SF, Eldeco Green Colony, Nakodar Road, Jalandhar, of petitioner and that too in the presence of Jasbir Kaur, owner of building and other respectables and neighbours and during the course of search of said house, drug money amounting to Rs.3,50,290/- and contraband (Heroin) weighing 333 grams were recovered. He further urges that above said search and recovery was duly videographed by raiding party. He further urges that Jaspal Kaur, owner of the building, had produced Rent Agreement, in terms of which, above said residential accommodation was let out in favour of petitioner and his mother Balraj Kaur @ Pinki. He further urges that petitioner is the main accused and the recovery of contraband (Heroin) effected from the rented accommodation of the petitioner falls under “commercial quantity”. He

custodial interrogation is required to reveal the truth and as such he is not entitled for the concession of pre-arrest bail.

I have heard learned counsel for the parties and have carefully gone through the contents of petition as well as replies furnished at the instance of respondent-State.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly huge quantity of contraband (333 grams heroin), which falls under “commercial quantity” and drug money worth Lakhs of rupees were recovered from the rented accommodation of the petitioner. Pre-arrest bail to an accused should be granted in exceptional circumstances as a person couched in comparative safety of the pre-arrest bail would certainly not disclose all the facts within his knowledge. In a given situation, custodial interrogation of petitioner is certainly required for complete and effective investigation. In case, same is denied to the Investigating Agency that shall leave many glaring loopholes and gaps, adversely affecting investigation, which is uncalled for. Keeping in view totality of entire scenario and nature of offence, no extra-ordinary ground has been made out in favour of petitioner for his entitlement of pre-arrest bail.

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner is dismissed.

(LALIT BATRA)
JUDGE

25.01.2021

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Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No