

**CRM-M-30928-2020 &
CRM-M-40957-2020**

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

1. CRM-M-30928-2020

Sandeep Kumar @ Sany @ Sunny

..... Petitioner

Versus

State of Punjab

..... Respondent

2. CRM-M-40957-2020

Sukhpal Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

Date of decision : 16.2.2021

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

Present : Mr.P.S. Saini, Advocate
for the petitioners in both cases.

Mr.J.S. Ghuman, DAG, Punjab.

H.S. MADAAN, J.

Cases taken up through video conferencing.

Vide this order, I shall dispose of two petitions for grant of pre-

arrest bail i.e. **CRM-M-30928-2020** filed by petitioner Sandeep Kumar @

Sany @ Sunny and **CRM-M-40957-2020** filed by petitioner Sukhpal Singh, both of them accused in FIR No.208 dated 6.9.2020, under Sections 15, 25 and 29 of NDPS Act and Sections 420, 473 and 465 IPC, registered with Police Station Bhikhi, District Mansa.

Briefly stated, the facts of the case as per the prosecution story are that on 6.9.2020, a police party from Police Station Bhikhi led by its SHO Amarjit Singh was on patrol duty, when it received a telephonic message that ASI Janta Singh along with other police officials had intercepted a truck bearing No.RJ-19-GA-5579 being driven by Kamikar Singh son of Jeet Singh, resident of Gurne Khurd having another occupant, namely, Janta Singh son of Gurnam Singh, resident of Jharon. Accordingly, the police party led by SI Amarjit Singh reached at the spot. The intercepted truck was searched as per law and 10 bags having poppy-husk each weighing 20 kgs., total contraband 200 kgs. were found to be there in the truck. After drawing samples therefrom, the bags containing residue poppy-husk along with the truck were taken into police possession. Kamikar Singh and Janta Singh were arrested in this case and during the course of interrogation, they disclosed that the truck was owned by Sandeep Kumar @ Sany @ Sunny (petitioner in **CRM-M-30928-2020**) and Sukhpal Singh (petitioner in **CRM-M-40957-2020**) was his accomplice, who were doing business of selling poppy-husk and they were escorting the truck carrying poppy-husk in a car of white colour and instructed them to reach village Mohar Singh Wala. Formal FIR was got registered. Investigation in the case got started.

Apprehending their arrest in this case, petitioners/accused had approached the Court of Sessions seeking grant of pre-arrest bail but their such applications were dismissed by the Court of learned Judge, Special Court, Mansa vide separate orders dated 22.9.2020 and 23.10.2020, respectively. As such, they have approached this Court asking for similar relief by way of filing separate petitions, which are being opposed by the State counsel.

I have heard learned counsel for the parties besides going through the record and I find that both the petitions are doomed for failure.

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.

Both the petitioners are specifically named in the FIR with the allegations that the truck in which the contraband was being transported belongs to Sandeep Kumar @ Sany @ Sunny (petitioner in **CRM-M-30928-2020**), who along with his accomplice Sukhpal Singh (petitioner in **CRM-M-40957-2020**) had been engaged in drug trafficking and on the fateful day also, they were going ahead of the truck in a car of white colour, though they could not apprehended at the spot. The allegations against both the petitioners, who are named in the FIR being involved in the drug trafficking are very grave and serious.

The custodial interrogation of the petitioners is required for complete and effective investigation to find out as to from where the

contraband was being brought and where it was to be supplied as well as to find out about previous such transactions, if any. In case custodial interrogation of the petitioners 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.

Furthermore, the truck in question is stated to be belonging to petitioner Sandeep Kumar @ Sany @ Sunny and he is require to explain as to under what circumstances it was being used for transportation of contraband. This is a case of recovery of contraband amounting to commercial quantity attracting rigor of Section 37 of the Act. The recovered poppy-husk belonged to the petitioners, which was being transported in the truck belonging to petitioner Sandeep Kumar @ Sany @ Sunny. There is nothing to record satisfaction that there are reasonable ground for believing that petitioners are not guilty of that offence or that they have not committed any offence.

Furthermore according to the prosecution story, a wrong number plate had been affixed on the truck.

The argument put forward by learned counsel for the petitioners that the petitioners are being involved in this case on the statement of co-accused, which are inadmissible in evidence, is without any merit. Such disclosure statement of co-accused can certainly be taken into consideration for providing lead in investigation and even during trial it is admissible under Section 30 of the Indian Evidence Act.

Thus keeping in view the huge amount of recovery involved,

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gravity and seriousness of allegations against the petitioners and necessity of their custodial interrogation, no case for grant of pre arrest bail to either of the petitioners is made out.

Thus, the petitions stand dismissed.

**(H.S. MADAAN)
JUDGE**

16.2.2021
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1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**