

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

CRM-M-37313-2020 (O&M)

Date of decision: 28.01.2021

Gaurav Verma and another

...Petitioners

Versus

State of Punjab

...Respondent

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

Present: Mr. Shiv Kumar , Advocate for the petitioners.

Mr. Gaurav Garg Dhuriwala, Sr. DAG, Punjab.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This petition for pre-arrest bail has been filed by petitioners Gaurav Verma and Saurav Verma, being accused in FIR No.72 dated 23.05.2020, for offences under Sections 21, 22, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered with Police Station Mehal Kalan, District Barnala.

Briefly stated the prosecution story is that, on 23.05.2020, SI Satnam Singh received a secret information that several persons by name of Lovepreet Singh, Satvir Singh, Ravinder Singh, Balwinder Singh and Ravi etc. have formed a gang which has been supplying intoxicant tablets and powder to various persons in the area of Tallewal

and Mehal Kalan by bringing the stock from outside and on that day, they were in the process of selling heroin in Verna Car bearing No.PB11-AY-1700; finding the information to be reliable, SI Satnam Singh sent ruqa to the police station, on the basis of which, formal FIR was recorded; a raid was conducted and nominated persons were arrested; they were found in 2500 Clovidol 100 SR tablets; Balwinder Singh accused while being interrogated got recovered 2,50,000/- intoxicant tablets and drug money of Rs.4 lacs on 26.05.2020; other accused Zulaf Car @ Zulfi, got recovered 12,000 intoxicant tablets and during his interrogation on 31.05.2020; he disclosed the name of Bittu Ram, proprietor of Garg Medical Hall, Aman Singla, proprietor of CM Medical Hall, Kismish Garg Tapa, Manpreet Singh and Firoz Deen; on 02.06.2020, Bittu Ram and Aman Singla so nominated were apprehended while travelling in a car and 10,500 intoxicant tablets were recovered from them; another person by name of Deepak Arora was arrested and 75000 intoxicant tablets were recovered from him, whereas from Harish Bhatia, 20,000 intoxicant tablets and drug money of Rs.85,000/- were recovered; during interrogation of such accused, present petitioners Gaurav Verma and Saurav Verma were nominated; as the investigation progressed, one Jatinder Kumar got recovered 1,32,554 intoxicant tablets/capsules whereas accused Gaurav Arora got recovered 2 crore 88 lacs intoxicant tablets /capsules; the investigation in the case revealed that petitioners/accused had constituted some firms

in connivance with Newtech and through those firms, they had supplied intoxicant material in the State of Punjab, which were prohibited drugs.

Apprehending their arrest in this case, both the petitioners/accused had approached Judge, Special Court, Barnala by moving an application for grant of pre-arrest bail. Their such application was dismissed by that Court, vide order dated 07.09.2020. Feeling dissatisfied, the petitioners have approached this Court, craving for grant of similar relief, which request is being opposed by the State counsel.

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

Learned counsel for the petitioners has argued that petitioners are innocent and they have not committed any offence; they are not named in the FIR, rather, their names cropped up in the statements of co-accused, which are inadmissible in evidence; the petitioners are doing genuine business in the name of firm, which has been paying GST to the Government; all the transactions are duly recorded; the petitioners are ready and willing to join the investigation, therefore, they be granted pre-arrest bail.

Whereas, this request is being vehemently opposed by the State counsel, submitting that petitioners are actively involved in supply of huge number of intoxicant tablets to various drug peddlers, who distribute the same amongst the drug addicts in the State of

Punjab, giving rise to an alarming situation, since drug addiction has reached dangerous proportions in the State and custodial interrogation of the petitioners is necessary to smash that drug cartel and arrest the other persons, who are part thereof. He has further contended that the petitioners have been supplying a huge quantity of intoxicant tablets meant for consumption by the drug addicts, preparing fake bills.

After hearing the rival contentions, I find that no ground for grant of pre-arrest bail is made out. Pre-arrest bail is a discretionary equitable relief, which is to be granted by the Court in rare and exceptional circumstances to save the innocent persons from harassment and inconvenience and not to provide protective umbrella to the criminals enabling them to avoid arrest and interrogation by the investigating agency. Here, the allegations against the petitioners are very grave and serious that they have been supplying intoxicant tablets in huge quantity to drug peddlers who in turn have been supplying those to several persons in the State. Their names not being mentioned in the FIR does not give rise to any benefit to them. The purpose of lodging of FIR is to set the criminal machinery in motion. It may not contain the minute details of the incident. The limited purpose of recording FIR with regard to commission of a cognizable offence is to start investigation in the case. FIR is not supposed to be encyclopedia of the facts. After registration of the FIR, the investigation in the case starts. The purpose of holding investigation is to find out as to how the offence was committed; the persons who had participated in the

commission of offence; the role played by each one of them; the motive for commission of the crime etc. It is only during the course of investigation that the entire thing starts unfolding and picture becomes clear with regard to commission of an offence. The interrogation of an accused during course of investigation is an important tool to find out how a crime was planned and executed. The necessary details come out from the interrogation of the accused. It is entirely a misconception and wrong interpretation of law to say that statement made by co-accused during interrogation by the police is inadmissible. Such statement can definitely be taken into consideration for providing lead in the investigation. If we go through the relevant provisions with regard to admission made by an accused, we find that Section 24 of the Indian Evidence Act (for brevity 'the Act'), provides that confession caused by inducement, threat or promise is irrelevant in criminal proceedings. Of course, no different view in the matter can be taken.

Section 25 of the Act provides that no confession made to a police officer shall be proved as against a person accused of any offence. The legislature in its wisdom had incorporated this provision as a safeguard to ensure that the police does not extract confession from an accused by threat, coercion or by use of force. It is for that reason, it has been provided that confession made by an accused to a police officer cannot be proved.

Section 26 of the Act somewhat qualifies provision of

Section 25 of the Act, providing that if the confession made by any person while he is in custody of a police officer which is in immediate presence of a Magistrate, then that may be proved against such person.

Section 27 of the Act which deals with how much of information received from the accused may be proved, is not much relevant in the present case.

Section 28 of the Act provides that confession made after removal of impression caused by inducement, threat or promise is relevant whereas Section 29 of the Act dilates that confession, otherwise, relevant is not to become irrelevant because of promise of secrecy etc.

Whereas, perusal of Section 30 of the Act in this case is very important which provides that when more persons are being tried jointly for the same offence and a confession made by one of such persons affecting himself and some 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. Though, this section deals with value of confession made by one accused when several accused are being tried together. When such confession affects the maker thereof as well as other persons, the natural inference is that if such confession, if proved can be relied upon in trial, then it cannot be ignored during the investigation, which is a pre-trial stage. The investigation is meant to find out the truth with

regard to commission of an offence and information provided by an accused during his interrogation by the investigating officer cannot be discarded outrightly except in the cases, which have been specifically dealt with by the Act. Therefore, argument of learned counsel for the petitioners that since names of the petitioners have cropped up in the interrogation of co-accused, the accused cannot be proceeded against in the case cannot be accepted. The petitioners are running a firm under the name of GS Medicos at Agra and it comes out from the interrogation of co-accused, specially of Jatinder Arora @ Vicky that they are important part of the drug cartel, supplying intoxicant tablets like Clovidol, Alprazolem etc. to their co-accused for consumption by drug addicts, though such drugs are banned in the State of Punjab. The custodial interrogation of the petitioners is a must for finding out the factual position and to know as to which other persons, they had been supplying the intoxicant tablets, the drug money received by them, where the money had been invested etc. In case, custodial interrogation is denied to the investigating agency that shall leave many glaring loopholes and gaps, adversely affecting the investigation, 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. Then since it is a case in which recovery of the contraband effected is huge amounting to commercial quantity, bar of Section 37 of the NDPS Act is there which provides that no person accused of an offence involving commercial quantity shall be released on bail without giving the Public Prosecutor an opportunity to oppose the application and if Public Prosecutor offers such opposition, the Court is required to record satisfaction that there are reasonable grounds for believing that the accused is not guilty of such offence and he is not likely to commit any offence while on bail. No ground to record the requisite satisfaction is there in this case.

In view of the detailed discussion above, no ground for grant of pre-arrest bail to the petitioners is made out. Thus, finding no merit in the instant petition, the same stands dismissed.

28.01.2021

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(H.S. MADAAN)
JUDGE

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