

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

CRM-M-37370 of 2020

DATE OF DECISION :- January 29, 2021

Naresh

...Petitioner

Versus

State of Haryana

...Respondent

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

Present:- Mr. Simranjeet Singh, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

The case has been taken up through Video Conferencing.

Written reply filed on behalf of the official respondents be taken on record.

This petition for pre-arrest bail has been filed by petitioner Naresh, aged about 33 years, son of Balbir Singh resident of Near Airtel Tower, Village Samain, Tehsil Tohana, District Fatehabad, Haryana, an accused in F.I.R. No. 221 dated 16.9.2019 registered with Police Station Sadar Tohana, District Fatehabad for offences under Section 15/18 of the NDPS Act, 1985.

Briefly stated the prosecution story is that on 16.6.2019, a police party from Police Station Sadar Tohana led by ASI Sukhdeep Singh, while being present in the area near Gau Shala of Village Tharbi in connection with checking intercepted a Car having Registration No. HR 22Q 9675 which was being driven by Shyamdeep @ Sandeep accused and search of the Car revealed that a plastic bag was there on rear seat of the Car

which on being checked was found to contain Kachra Doda Post (poppy-straw), another polythene bag white in colour was observed which was found to contain opium. The recovered Kachra Doda Post weighed about 6 kg. 50 grams and recovered opium was found to be 115 grams. Necessary samples were drawn. Accused Shyamdeep @ Sandeep was arrested in this case. The Car and contraband were taken into police possession. On being interrogated accused Shyamdeep @ Sandeep disclosed that he had purchased the recovered Kachra Doda Post from Kuldeep son of Makhan Lal and opium was given to him by his father Sita Ram. Kuldeep Singh @ Kalia was arrested in this case on 11.11.2019 and he suffered a disclosure statement that present petitioner Naresh had supplied 20 Kg. of poppy-straw to him about 2½ months back and he had supplied 10 kg. out of that to main accused Shyamdeep @ Sandeep for a sum of Rs.30,000/-. After being nominated as an accused in this case Naresh filed an application for grant of pre-arrest bail before the Court of Sessions at Fatehabad, and such application which was assigned to Additional Sessions Judge, Fatehabad was, however, dismissed vide order dated 23.10.2020. Feeling aggrieved, the petitioner has 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 petitioner and learned State counsel besides going through the record.

Learned counsel for the petitioner has submitted that petitioner is not named in the F.I.R.; he was nominated in the statement of co-accused which is not admissible; no recovery has been effected from him; he has joined the investigation as directed by this Court, therefore, his custodial interrogation is not necessary, as such pre-arrest bail be granted to him,

whereas learned State counsel has opposed the request vehemently stating that though the petitioner has joined the investigation but has not disclosed the material facts more particularly with regard to the persons from whom he had been procuring the contraband and his various customers. He has not come up with information as to where he had been keeping the drug money, therefore, his custodial interrogation is necessary and in case he is granted pre-arrest bail then the investigation shall greatly suffer in the process, therefore, petition be dismissed.

After hearing the rival contentions and going through the record, I find that petitioner is not entitled to discretionary equitable relief of anticipatory bail which is meant to save the innocent persons from harassment and inconvenience and not to shield the criminals from arrest and custodial interrogation. Though the petitioner is not named in the F.I.R and he was nominated in the statement of co-accused but that does not help the petitioner in any way. Statement of co-accused made during interrogation at the stage of investigation of a case can certainly be taken into consideration for providing lead in the investigation. Rather such type of statement in which an accused attributes incriminating acts affecting himself as well as co-accused is admissible under Section 30 of the Evidence Act during the course of trial even. If it is so then it cannot be said that such type of statement is worthless and is to be discarded out rightly. The custodial interrogation of the petitioner is found to be necessary for complete and effective investigation. In case the same is denied to the investigating agency that shall adversely effect the investigation which is uncalled for. The petitioner comes out to be an habitual criminal as has been noticed by learned Additional Sessions Judge in the impugned order

dismissing the petition for regular bail filed by the petitioner. Present petitioner Naresh is involved in four other criminal cases including one case under NDPS Act bearing F.I.R No. 13 of 2019, under Sections 8, 20, 32, 60 of NDPS Act, Police station Champawat, Uttarakhand. The petitioner has also been convicted in a criminal case bearing F.I.R No. 208 of 2014, under Sections 104, 149, 323, 447 IPC, Police Station Sadar, Tohana, District Fatehabad.

Therefore, considering all the facts and circumstances of the case, the petition is doomed for failure and is dismissed accordingly.

(H.S. MADAAN)
JUDGE

January 29, 2021

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No