

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

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CRM-M-43207-2021.

Date of Decision: 24.11.2021.

Chhinder Singh @ Shinda

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Jasdeep Singh Kailey (Gharuan), Advocate for petitioner.

Mr. Anmol Singh Sandhu, Assistant Advocate General, Punjab.

Lalit Batra, J.(Oral)

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been moved by petitioner-**Chhinder Singh @ Shinda** in case FIR No.70 dated 22.06.2021 under Section 15 of NDPS Act, registered at Police Station Raman, District Bathinda.

Learned counsel for the petitioner *inter alia* contends that allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. He further urges that allegedly on 22.06.2021 contraband (Poppy Straw weighing 5 Kilograms—400 grams non-commercial quantity) was recovered from the sheep pen belonging to the petitioner. He further urges that neither petitioner was present on the spot nor recovery of alleged contraband pertains to him. He further submits that alleged recovery of contraband has already been effected and nothing

incriminating is to be recovered at the instance of petitioner. He further submits 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 in the instant case FIR, on 22.06.2021, after having received secret information, Sub Inspector Gurjant Singh alongwith other police personnel conducted raid at the sheep pen belonging to the petitioner and on checking, one plastic bag containing 5 Kilograms—400 grams Poppy Straw was recovered. He further urges that above said recovery of contraband was effected in the presence of independent witness Gurdeep Singh, Watchman. He further urges that petitioner is habitual offender as apart from instant FIR, seven (07) more FIRs under Section 15 of NDPS Act, as detailed in Para No.4 of the status report dated 31.10.2021, have already been registered against him. He further submits that petitioner has indulged in unlawful business of narcotics since the year 2002. He further urges that custodial interrogation of petitioner is necessitated as genesis of commission of offence is to be unveiled. He further urges that in view of nature of offence committed by the petitioner, he is not entitled to 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 status report filed 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 on 22.06.2021 contraband (Poppy Straw weighing 5 Kilograms—400 grams non-commercial quantity) was recovered from sheep pen belonging to the petitioner. As pointed out by learned State counsel, petitioner is habitual offender involved in as many as eight (08) cases of Section 15 of NDPS Act including instant FIR. Pre-arrest bail is not to be granted as a matter of routine/course in all cases. The grant or refusal of such bail depends on the variety of circumstances, the cumulative effect of which, should enter the judicial verdict. The power under Section 438 Cr.P.C. is to be exercised sparingly and in exceptional cases keeping into focus the facts and circumstances of each case. At the same time, it is well-settled that the order of anticipatory bail cannot be allowed to circumvent normal procedure of arrest and investigation by the police. The Court has also to see that the investigation is in the province of the police and an order of anticipatory bail should not operate as an in-road into the statutory investigational powers of the police, in exercising the judicial discretion in granting the anticipatory bail. The Court should not be unmindful of the difficulties likely to be faced by the Investigating Agency and the public interest likely to be affected thereby in this relevant connection. 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 to 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

24.11.2021
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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No