

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

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CRM-M-44470-2021.

Date of Decision: 23.11.2021.

Anshul Sardana

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Mayank Gupta, 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-**Anshul Sardana** in case FIR No.134 dated 26.06.2021 under Section 22 of NDPS Act (Section 29 of NDPS Act and Section 207 of Motor Vehicles Act added lateron), registered at Police Station Dirba, District Sangrur.

In compliance of order dated 12.11.2021, additional reply dated 22.11.2021 by way of affidavit of Manoj Gors, PPS, Deputy Superintendent of Police, Sub-Division Dirba, District Sangrur, alongwith Annexures R-1 and R-2, filed on behalf of respondent-State, is taken on record.

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 26.06.2021 contraband, 205 strips each strip having 10 tablets i.e. 2050 intoxicant tablets labelled Roldal-100 SR (Tramadol) and 45 strips each strip having 10 tablets i.e. 450 intoxicant tablets labelled Alprasafe 0.5

(Alprazolam), was recovered from co-accused Kulvir Singh. He further urges that petitioner was not named in the FIR, whereas his name surfaced in the array of accused on the basis of disclosure statement rendered by co-accused Vikram Singh @ Vicky, who was named by the main accused Kulvir Singh, in his disclosure statement. He further submits that alleged recovery of contraband has already been effected from co-accused Kulvir Singh and nothing incriminating is to be recovered at the instance of petitioner. He further submits that even otherwise reliance placed on call details by respondent-State does not create any nexus of petitioner in the commission of alleged offence. He further urges that petitioner is not involved in any other case FIR. 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 26.06.2021 at about 2:00 PM, co-accused Kulvir Singh was apprehended alongwith contraband, 205 strips each strip having 10 tablets i.e. 2050 intoxicant tablets labelled Roldal-100 SR (Tramadol) and 45 strips each strip having 10 tablets i.e. 450 intoxicant tablets labelled Alprasafe 0.5 (Alprazolam). He further submits that on 30.06.2021, co-accused Kulvir Singh suffered disclosure statement, disclosing therein that above said contraband was purchased by him from co-accused Vikram Singh @ Vicky, resident of Village Saidpura, District Karnal, and accordingly, Vikram Singh @ Vicky was nominated as accused and offence under Section 29 of

NDPS Act was added in the array of offence. He further urges that on the same day i.e. on 30.06.2021, co-accused Vikram Singh @ Vicky was arrested and during interrogation, he suffered disclosure statement disclosing therein that he had purchased above said contraband from Anshul Sardana (petitioner herein), owner of 'Sai Medical Hall', Ram Nagar, Main Bazar, Karnal, while contacting him (Anshul Sardana) on mobile phone No.79887-03108 from his mobile phone No.99911-26778. He further submits that co-accused Kulvir Singh failed to produce Certificate of Registration of motorcycle, which was used in the commission of offence and accordingly, offence under Section 207 of Motor Vehicles Act, was added in the array of offence. He further submits that sample parcels of above said contraband were sent to FSL, Mohali, and in terms of FSL report dated 14.09.2021 (Annexure R-1), in the Parcel No.1 containing 10 tablets of white colour packed in a strip labelled 'Roldal-100 SR (Tramadol prolonged Release Tablets)', salt 'Tramadol Hydrochloride' was detected, whereas in respect of Parcel No.2 containing 10 tablets of peach colour packed in a strip labelled 'ALPRASAFE-0.5', salt 'Alprazolam' was detected. He further submits that during investigation, Call Details Record (CDR Annexure-R/2) of mobile phone No.99911-26778 of co-accused Vikram Singh @ Vicky and mobile phone No.79887-03108 of Anshul Sardana, for the period commencing from 05.06.2021 to 28.06.2021 was obtained, in terms of which, number of calls were exchanged and especially the fact that on 24.06.2021 as many as eight (08) calls were exchanged between them. He further submits that contraband was recovered from co-accused Kulvir Singh on 26.06.2021. He further submits

that involvement of petitioner in the commission of offence is well evident as he being in profession of sale of medicines/drugs, while running a Medical Hall under the name and style of 'Sai Medical Hall', Ram Nagar, Main Bazar, Karnal, had arranged the contraband and sold the same to co-accused Vikram Singh @ Vicky, who further sold it to co-accused Kulvir Singh, from whose possession contraband was recovered. He further submits that contraband recovered in this case is of 'commercial quantity'. He further urges that custodial interrogation of petitioner is necessitated as he being propounder of transaction of huge contraband, genesis of commission of offence is to be unveiled and further source from where the contraband was procured by the petitioner, is to be traced out. 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 dated 04.11.2021 and additional reply dated 22.11.2021 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 contraband (2050 intoxicant tablets labelled Roldal-100 SR 'Tramadol Hydrochloride' and 450 intoxicant tablets labelled Alprasafe 0.5 'Alprazolam'), which was recovered from co-accused Kulvir Singh, the said contraband was allegedly sold by the petitioner to co-accused co-accused Vikram Singh @ Vicky, who further sold it to co-accused Kulvir Singh.

It should be borne in mind that in a murder case, the accused commits murder of one or two persons, while those persons who are dealing

in narcotic drugs are instrumental in causing death or in inflicting death-blow to a number of innocent young victims, who are vulnerable; it causes deleterious effects and a deadly impact on the society; they are a hazard to the society; even if they are released temporarily, in all probability, they would continue their nefarious activities of trafficking and/or dealing in intoxicants clandestinely. Reason may be large stake and illegal profit involved. Even otherwise, Section 37 of NDPS Act creates bar in grant of bail in case involving contraband of 'commercial quantity'.

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 as genesis of commission of offence is to be unveiled and further source from where the contraband was procured is to be traced out. 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

23.11.2021
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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No