

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

CRM-M-4203-2023

Date of decision : 10.08.2023

NAVEEN KUMAR

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Suman Kumari, Advocate
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

PANKAJ JAIN, J. (ORAL)

Apprehending his arrest in FIR No.72, dated 15.07.2022, registered for offences punishable under Sections 15, 61 of the NDPS Act, 1985, at Police Station Bahav Wala, District Fazilka, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

2. While issuing notice of motion on 27.01.2023, the following order was passed :

Learned counsel for the petitioner inter-alia contends that the petitioner has been falsely implicated in the case by co-accused- Swaran Singh as Swaran Singh owes money to the petitioner which he is refusing to return; the petitioner has no other criminal antecedents; the only evidence against the petitioner is a disclosure statement of a co-accused which has no evidentiary value; the CCTV footage appended with the petition as Annexure P-3 clearly reveals that at the time of the alleged recovery of the drugs the petitioner was sitting in his shop which is 20 kms. away from the spot where the alleged recovery took place and that the petitioner is also ready and willing to join and cooperate with the

investigation.

Notice of motion.

Mr. Arun Luthra, Deputy Advocate General, Punjab, accepts notice on behalf of the respondent-State.

For arguments, adjourned to 02.05.2023.

Till the adjourned date the petitioner's arrest is stayed.

Before the adjourned date the State shall file a status report in response to the averments made in the present petition as also the afore submissions made on behalf of the petitioner.”

3. As per the story of the prosecution :

“naka was laid and after sometime Mohindra Bolero Pick up reached at the spot. It was signaled to stop but the driver of the Pick up did not stop the vehicle and thereafter, he was chased by the police officials. After sometime the Pick up was found abandoned in the area of Hargobind Nagar, Abohar and the driver of the Pick up managed to run away from the spot. On checking the vehicle, it was found to be loaded with 14 bags of poppy husk each weighing 25 Kgs totaling up to 350 Kgs of poppy husk. Perusal of police record shows that the applicant has been nominated on the basis of DDR No. 15 dated 18.12.2022 whereby non applicant accused Swaran Singh during the course of investigation made disclosure before Investigating Officer that on 15.07.2022 the car make Mohindra Bolero Camper was being driven by applicant Naveen Kumar and he was accompanied with Nitán Kumar, Rahul Kumar and Nirmal Kumar who were coming from Sito Gunno chowk and on seeing the police party they tried to run away from the spot. He further disclosed that the Kurta Pajama recovered from the Bolero Camper was of applicant Naveen Kumar.”

4. Counsel for the petitioner submits that the story of the prosecution is highly improbable and gets falsified from the CCTV footage appended along with the petition whereby the petitioner can be seen sitting in his shop 20 kms. away from the site of recovery.

5. Counsel for the State submits that the CCTV footage is of 10.00 pm whereas the recovery was made at 10.45 pm and the distance is merely 20 kms.
6. Counsel for the petitioner joins issue thereof to submit that once there was a secret information that the vehicle was coming from Rajasthan, it is highly improbable that the petitioner was present in the vehicle as well as at the shop at the same point of time.
7. Counsel for the State on instructions from ASI Balbir Singh however submits that the petitioner has joined investigation and is no more required for custodial interrogation.
8. Keeping in view the fact that the only evidence at this stage against the petitioner is a disclosure statement made by co-accused Swaran Singh and the petitioner has no criminal antecedents of being involved in any other case, the present petition is allowed. Order dated 27th of January, 2023 is hereby made absolute, subject to the conditions as enumerated under Sections 438(2) Cr.P.C.

August 10, 2023
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No