

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

CRM-M-1620-2024 (O&M)
Date of decision : 25.01.2024

Mubarak

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present : Mr. Samay Singh Sandhawalia, Advocate,
 for the petitioner.

 Mr. Kiran Pal Singh, AAG, Haryana,
 for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 Cr.P.C. for seeking pre-arrest bail in FIR No.605 dated 10.12.2023, under Section 21(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985, (for short, 'NDPS Act') registered at Police Station Sadar Yamuna Nagar, District Yamuna Nagar.

2. Reply dated 25.01.2024 by way of affidavit of Jagbir Singh, HPS, Deputy Superintendent of Police, HSNCB, District Ambala, on behalf of the respondent, filed by learned State counsel, is taken on record. Copy thereof supplied to the opposite side.

Registry to tag the same at appropriate place.

3. As per prosecution story, on the basis of some secret information, a barricade (*naka*) was laid by the police party leading to arrest of one Parvej and recovery of 140 grams of smack (*heroin*) is alleged to have been effected from his conscious possession. During investigation, above Parvej suffered disclosure naming the present petitioner as a source of

the alleged contraband. It is the prosecution case that alleged contraband was purchased by said Parvej from the present petitioner on payment of Rs.2,80,000/-.

4. Learned counsel contends that petitioner has been falsely implicated in the present case, as he was neither named in the FIR; nor any incriminating material is available with the police regarding his complicity. Further contended that petitioner has been nominated merely on the basis of disclosure made by co-accused-Parvej and which is not admissible in law. In support of the above contention, learned counsel for the petitioner has relied upon the order of Co-ordinate Bench rendered in '**Mewa Singh Vs. State of Punjab**', (Punjab and Haryana) : Law Finder Doc Id#1730010. Lastly contented that petitioner is ready to join the investigation; but, he be protected by granting the benefit of pre-arrest bail.

5. *Per contra*, learned State counsel vehemently opposed the prayer while submitting that although, contraband was recovered from co-accused-Parvej, but during interrogation, he disclosed that 140 grams of smack (*heroin*) was purchased by him from the present petitioner. Learned State counsel while making reference to Paytm transactions (R-2) as well as Call Details Record (CDR) (R-3), further submitted that *prima facie*, complicity of petitioner is well apparent and to find out the true facts, his custodial interrogation is very much necessary.

6. Heard both sides and perused the paper-book.

7. Concededly, petitioner was not named in the FIR; rather, he has been nominated on the basis of disclosure made by co-accused-Parvej on 12.12.2023 (R-1), from whom, recovery of 140 grams of smack (*heroin*) is alleged to have been effected on 10.12.2023. As per status report by way of

an affidavit of Jagbir Singh, DSP, HSNCB, District Ambala, co-accused-Parvej purchased the alleged contraband from present petitioner on payment of Rs.2,80,000/- through cash as well as by Paytm from his mobile number 8950565142. Also discernible from records that co-accused-Parvej remained in contact with the petitioner through his another mobile number i.e. 9053005500 and Paytm transactions are duly reflected in Annexure R-2. For reference, the details of which are as under:-

“ Rs.50,000/- + Rs.49,000- + Rs.900/- on 21.09.2023

Rs.5,000/- on 4.10.2023

Rs.10,000/- on 06.10.2023”

Moreover, call details of aforesaid Parvej as well as present petitioner have also been retrieved by the police and perusal of the Call Details Record (R-3) indicates that both of them remained in regular contact with each other.

8. In view of the above, as on today, there is sufficient material with the police regarding complicity of petitioner; hence, his custodial interrogation would be very much necessary to find out the actual source of alleged contraband.

9. Although, learned counsel for the petitioner tried to convince this Court while relying upon the judicial precedent for pre-arrest, but the same is not helpful, due to the reasons that in Mewa Singh's case (supra), recovery of 1.7 Kgs. *heroin* was allegedly effected from one Bachittar Singh and during the course of interrogation, he made a disclosure to the effect that contraband was supplied to him by said Mewa Singh. The Co-ordinate Bench while considering the pre-arrest bail of Mewa Singh found that “the only evidence against him is in the shape of disclosure statement.” Apart

that, there was no other material available in that case. However, in the present case, as already discussed, *prima facie*, there is sufficient material regarding the complicity of petitioner; hence, Mewa Singh’s case (*supra*) is not helpful to the petitioner in any manner.

10. As a result thereof, there is no option except to dismiss the petition.
11. Ordered accordingly.
12. Also clarified that observations made above shall not be construed as an expression of opinion on merits of the controversy, in any manner.
13. Pending application(s), if any, shall also stand disposed off.

25.01.2024
adhikari

(MAHABIR SINGH SINDHU)
JUDGE

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