

101 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-25518-2024
Date of decision: 1st July, 2024

Abdul Khan

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Kamlesh, Advocate for the petitioner.
Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 438 of Cr.P.C.
seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
24	27.03.2024	Amargarh, District Malerkotla	15 of NDPS Act, 1985

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the allegations that on the night of 27.03.2024, a police party was present at bus stand village Mohrana in connection with patrolling and checking duty when at around 7:30 PM a secret information was received and on the basis of the same a barricading was formed at Dana Mandi, village Tollewal and the



accused Bajinder Singh @ Raju and Boota Khan were apprehended along with a truck bearing registration No. PB-13 BP-8545. The truck driver i.e. accused Bajinder Singh tried to flee but was apprehended by the police officials and the co-accused Boota Singh who was sitting on the conductor seat was also apprehended. A notice was given by ASI Maghar Singh to the accused to conduct their search and thereafter their statements were recorded. They did not give their consent for conducting search. Independent witnesses were tried to be joined but no one joined. Thereafter, DSP Surinder Pal Singh was informed who reached at the spot and on conducting search after taking consent from the accused Bajinder Singh and Boota Khan, plastic bags containing 92 kg of poppy husk/straw were recovered from the truck. The co-accused were formally arrested. They were interrogated and disclosed during interrogation that the present petitioner was registered owner of the truck from where the recovery was effected. The investigation is under way. The petitioner had moved an application for grant of pre-arrest bail before the learned Special Court, Sangrur which was dismissed on 07.05.2024.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that no recovery was effected from him and it was effected from the possession of co-accused Bajinder Singh and Boota Khan. Infact, he had given his truck to the co-accused on rental basis and both of them were running business of transporting vegetables and other goods in this truck and the petitioner had nothing to do with the same.

He have been receiving fare/charges of rent through online transactions and



otherwise had not received any payment after the occurrence. He was not named in the FIR and was nominated as an accused only on 10.04.2024. His custodial interrogation is not required. He is ready to join the investigation. No recovery is to be effected from him. Therefore, it is argued that the petition deserves to be allowed.

4. *Per contra*, learned State counsel argued that the allegations against the petitioner are equally serious as against the co-accused who in their disclosure statements have clearly stated that the contraband belongs to the petitioner. The custodial interrogation of the petitioner is required for proper investigation of the matter by the police. No extra ordinary circumstance has been made out for extending benefit of pre-arrest bail to the petitioner and therefore, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. As per the allegations on 27.03.2024, recovery of 92 kg of poppy husk was effected from the truck bearing No. PB-13 BP 8545 which is admittedly owned by the petitioner but was being driven and occupied by the co-accused Bajinder Singh and Boota Khan at the relevant time. The petitioner has claimed that he has no concern with the abovesaid recovery. However, being registered owner of the truck in question, the allegations against him are equally serious in nature. Moreso, the co-accused have taken his name as owner of the contraband. In my considered opinion, his



custodial interrogation is required for thorough investigation of the matter by the police. The powers under Section 438 of Cr.P.C. are to be exercised in extra ordinary and sparing circumstances and the same should not operate as inroad in the normal legal procedure of criminal cases by the trial Court. It is well settled that custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of Cr.P.C. Many useful information can be disinterred during custodial interrogation. It is also a matter of discretion to grant or not to grant pre-arrest bail. Keeping in view the nature of the subject offences, I am of the considered opinion that custodial interrogation of the petitioner is required for conducting thorough investigation in the matter by the police. Accordingly, no ground for extending benefit of pre-arrest bail is made out. Hence, the petition stands dismissed.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

1st July, 2024
Parveen Sharma

- | | | |
|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |