



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

284

CRM-M-45199-2024(O&M)
Date of Decision: 23.09.2024

HARPREET SINGH ALIAS HEPU ALIAS AJIT SINGH

....Petitioner

VERSUS

STATE OF PUNJAB

....Respondent

CORAM : HON’BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Kuldip Singh, Advocate for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner seeking pre-arrest bail in case arising out of FIR No.121 dated 19.07.2024 registered under Section 21(c) of Narcotic Drugs & Psychotropic Substances Act, 1985 (Section 29 of Narcotic Drugs & Psychotropic Substances Act, 1985 added later on vide DDR No.38 dated 13.08.2024) at Police Station Canal Colony Bathinda, District Bathinda.

2. Brief facts relevant for the purpose of disposal of the instant petition are that on 19.07.2024, co-accused Tarsem Singh @ Soma and Karanpreet Singh @ Raman were apprehended by a police party while they were sitting in an Innova car bearing registration No.PB-03BF-5786. On conducting search, 1 kg 05 grams of heroin was recovered from their custody. The co-accused failed to produce any license or permit for possessing the same. After their arrest, they were interrogated. They suffered



disclosure statement to the effect that the petitioner was the supplier of the contraband. On the basis of this disclosure, the petitioner has been nominated as an accused in this case. Apprehending his arrest, he had moved an application for grant of anticipatory bail which was dismissed by the Court of learned Additional Sessions Judge, Bathinda, vide order dated 03.09.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of disclosure statement of co-accused Tarsem Singh, which cannot be considered to be admissible in evidence. No recovery is to be effected from him. His custodial interrogation is not required. He is ready to join the investigation. No useful purpose would be served by detaining him in custody. Therefore, it is urged that he deserves to be released on pre-arrest bail. To fortify his argument, learned counsel for the petitioner has relied upon the authority of Hon'ble Supreme Court rendered in ***Tofan Singh vs. State of Tamil Nadu : (2021) 4 SCC 1***.

4. *Per contra*, learned State counsel, in terms of the status report, has vehemently opposed the prayer of the petitioner by submitting that there are serious allegations against the petitioner. Though the petitioner has been nominated in this case on the basis of the disclosure statement suffered by the aforesaid co-accused, however, during the course of investigation, his complicity in the subject offence has been established. There are seven accused in the FIR including petitioner however only Tarsem Singh @ Soma and Karanpreet Singh are in custody. The remaining accused including petitioner are still absconding. The petitioner is the supplier of contraband.



His custodial interrogation is must for proper investigation in the matter as well as for effecting further recovery of contraband, if any. It is, thus, argued that the petition is liable to be dismissed.

5. I have learned counsel for the parties at considerable length and have also perused the material placed on record.

6. The petitioner has been nominated in this case on the basis of the disclosure made by co-accused Tarsem Singh @ Soma and Karanpreet Singh @ Raman, who were arrested at the spot and recovery of 01 kg. 05 grams of heroin was effected from them. The petitioner is stated to be the supplier of the recovered contraband. The complicity of the petitioner has been prima facie established during the course of investigation. Custodial interrogation of the petitioner is must for proper investigation in the matter and for effecting recovery of the contraband, if any. So far as the ratio of law as laid down by Hon'ble Supreme Court in *Tofan Singh's* case (supra) is concerned, the same stands clarified by Hon'ble Supreme Court in *State of Haryana vs. Samarth Kumar : 2022(3) RCR (Criminal) 991*, wherein it has been held that the advantage of decision of *Tofan Singh's* case (supra) can be taken in regular bail application or at the time of final hearing after conclusion of trial and not while seeking concession of pre-arrest bail. The well settled proposition of law is that while considering an application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses.

The powers under Section 482 of BNSS are to be exercised in extraordinary



and sparing circumstances. 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 482 of BNSS. Many useful information can be disinterred during custodial interrogation. It has also to be seen that an order of anticipatory bail does not operate as inroad in the normal legal procedure of criminal cases by the trial Court. It is also a matter of discretion to grant or not to grant pre-arrest bail. Keeping in view the discussion as made above, I am of the considered opinion that no extraordinary or sparing circumstance entitling the petitioner to seek concession of pre-arrest bail has been made out rather his custodial interrogation is required for thorough investigation in the matter by the police. Accordingly, finding no merit, the petition is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

23.09.2024

Deepak Patwal

(MANISHA BATRA)
JUDGE

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