

205 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.36573 of 2022 (O&M)
Date of decision : 22.11.2022

Arjan Singh Petitioner
versus

State of Punjab Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Ms. Amarinder Kaur, Advocate for the petitioner.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

PANKAJ JAIN, J. (ORAL)

The petitioner has prayed for grant of pre-arrest bail in FIR No.61 dated 11.07.2022 registered under Sections 21/27/29 of the NDPS Act, at Police Station Tappa Mandi, District Barnala.

On 22.08.2022 while issuing notice of motion the following order was passed:-

“Apprehending his arrest in FIR No.61 dated 11.07.2022 for offences punishable under Sections 21,27,29 of NDPS Act, 1985 registered at Police Station Tappa Mandi, District Barnala, the petitioner has preferred this petition under Section 438 Cr.P.C seeking pre-arrest bail.

*Learned counsel for the petitioner inter alia contends that the petitioner has been nominated in the FIR on the basis of disclosure statement made by the co-accused from whom contraband was recovered. He further contends that the quantity so recovered is less than the commercial quantity and thus, bar of Section 37 of the NDPS Act, 1985 will not be attracted. It has been further asserted that in the case of **The State of Haryana Vs. Samarth Kumar 2022 Live Law (SC) 622** recovery effected was more than the commercial quantity, thus, there was bar under Section 37 of the NDPS Act.*

*Learned counsel for the petitioner has relied upon the orders passed by a Co-ordinate Bench of this Court in **CRM-M-25942-2022 Daljit Singh Vs. State of Punjab** decided on 09.08.2022 and **CRM-M-20541 of 2022 Vijay Singh Vs. State of Punjab** decided on 16.08.2022*

wherein the concession of pre-arrest bail has been granted to the petitioner. Owing to the fact that the recovery made is less than the commercial quantity.

Notice of motion.

On the asking of the Court Mr. Mohinder Singh Joshi, Additional Advocate General, Punjab, who is present in Court accepts notice.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal and surety bonds to the satisfaction of the Arresting Officer/Investigating Officer. As and when called, the petitioner shall join the investigation. He shall abide by the conditions enumerated under Section 438(2) of the Cr.P.C.

To come up on 22.11.2022.”

Today, learned State counsel, on instructions from SI Renu, has stated that pursuant to the order dated 22.08.2022, the petitioner has joined investigation and is no longer required for custodial interrogation.

Learned counsel for the petitioner submits that it is not a case wherein commercial quantity was recovered. Moreover, the contraband was recovered from co-accused on whose disclosure the petitioner was nominated. She submits that keeping in view the quantity so recovered from the co-accused bar under Section 37 of the NDPS Act will not be attracted.

Keeping in view the aforesaid fact, the interim order dated 22.08.2022 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

The petition stands disposed off.

Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

22.11.2022
Pooja sharma-I

Whether speaking/reasoned
Whether Reportable :

Yes
No