

**207 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRM M-4944-2023 (O&M)****Date of Decision: 13.07.2023**

Sonu Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHUPresent: Mr. L.S. Sekhon, Advocate,
for the petitioner.

Mr. Joginder Pal Ratra, Sr. DAG, Punjab.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure (for short “Cr.P.C”) for grant of pre-arrest bail to the petitioner in FIR No.276 dated 14.12.2022, under Sections 15 and 29 of Narcotic Drugs & Psychotropic Substances Act, 1985 (for short “the Act”) registered at Police Station Sadar Samana, District Patiala.

2. As per case of the prosecution, 3 kg of poppy husk was recovered from the petitioner.

3. The Coordinate Bench vide order dated 02.02.2023, granted interim bail to petitioner and the same reads as under:-

“Prayer is for grant of anticipatory bail to the petitioner in criminal case having FIR No.276 dated 14.12.2022 registered under Sections 15 and 29 of NDPS Act at Police Station Sadar Samana, District Patiala.

Counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in the present case and as per prosecution version, the police raided the disclosed place on the basis of the secret information and recovered 3 kg. of poppy

husk and motorcycle bearing No.PB42-D-3802 from there while the person riding on the said motorcycle fled away from the spot on seeing the police officials. He further submits that as per prosecution version, the person who escaped from the spot was the present petitioner. He further submits that as per police, the said recovery was effected on 14.12.2022 whereas actually one day prior to 14.12.2022, the police officials visited the house of the petitioner and forcibly took away his motorcycle and to that effect, there is a CCTV footage which was captured in the CCTV camera installed in the house of the neighbour of the petitioner and the concerned CD is Annexure P-2. He further submits that earlier the petitioner was also involved in two other cases of similar nature in which he has been enlarged on bail. He further contends that even FSL report does not co-relate with the alleged recovery of 3 kg. of poppy husk and that the petitioner is ready to join the investigation.

Notice of motion.

Mr. C.L.Pawar, Addl. AG, Punjab accepts notice on behalf of the State and on instructions from ASI Paramjit Singh submits that the petitioner fled away from the spot while leaving behind his motorcycle and on checking the said motorcycle, 3 kg of poppy husk was recovered which was taken into possession by the police on 14.12.2022. However, the State counsel prays for time to seek necessary instructions with regard to CD (Annexure P-2) and report of FSL.

Now be listed on 13.7.2023.

In view of the fact that the present case is relating to recovery of 3 kg of poppy husk, embargo provided under Section 37 of NDPS Act is not attracted to the same it being covered under non-commercial quantity. So, in case of arrest, the petitioner is directed to be released on interim bail by the IO/Arresting Officer to his own satisfaction till the next date of hearing. The petitioner should join the investigation with the police well in time before the next date of hearing and is to abide by the conditions as envisaged under Section 438(2) of Cr.P.C. ”

4. Learned counsel on instructions from petitioner submits that in pursuance of the aforesaid order, he joined investigation and his custodial interrogation is not required by the Police.
5. The above factual position is duly acknowledged by learned State Counsel, on instructions from quarter concerned and fairly submitted that custodial interrogation of the petitioner is not required at this stage.
6. In view of above, interim order dated 02.02.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
7. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.
8. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
9. Disposed off accordingly.
10. Pending criminal misc. application(s), if any, shall also stand disposed off.

13.07.2023

SN

(MAHABIR SINGH SINDHU)
JUDGE**Whether speaking/reasoned : Yes/No****Whether Reportable: Yes/No**