

209 **IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM M-17489-2023 (O&M)

Date of Decision: 01.08.2023

Sucha Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. D.S. Batalvi, Advocate,
for the petitioner.

Mr. Joginder Pal Ratra, Sr. DAG, Punjab
assisted by ASI Jaswinder Singh.

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.171 dated 18.11.2021, under Section 15 of Narcotic Drugs & Psychotropic Substances Act, 1985 registered at Police Station Mehtiana, District Hoshiarpur.

2. Petitioner has been nominated in the present case on the basis of disclosure of co-accused, namely, Baldev Singh. Recovery of 18 kg. of poppy husk (non-commercial) was allegedly effected from said Baldev Singh.

3. The Coordinate Bench vide order dated 13.04.2023, 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.171 dated 18.11.2021 registered

under Sections 29, 15 of NDPS Act at Police Station Mehtiana, District Hoshiarpur.

Counsel for the petitioner inter alia contends that the petitioner, who is having no criminal history under NDPS Act, is falsely implicated in the present case on the basis of the alleged disclosure made by co-accused Baldev Singh who is stated to be found in possession of 18 kg of poppy husk. He further submits that the aforesaid contraband comes under non-commercial quantity and as such, is not covered under embargo provided under Section 37 of NDPS Act and further, relevance and admissibility of the alleged disclosure statement made by co-accused will be tested during trial. He further submits that the petitioner is ready to join the investigation with the police.

Notice of motion.

Mr. C.L.Pawar, Addl. AG, Punjab accepts notice on behalf of the State of Punjab and on instructions from ASI Jaswinder Singh submits that the police recovered 18 kg of poppy husk from possession of co-accused Baldev Singh who was arrested on 17.11.2021 and said Baldev Singh made disclosure statement that he procured the aforesaid poppy husk from the present petitioner and then the present petitioner was named as accused in the present case. However, the State counsel has not disputed the fact that the petitioner is having no criminal antecedents as far as NDPS Act is concerned and that the contraband recovered from co-accused-Baldev Singh comes under non-commercial quantity.

Now be listed on 1.8.2023.

In view of above, the petitioner is hereby directed to join the investigation with the police and in case of arrest, he is to be released on interim bail by the investigating officer/arresting officer to his own satisfaction till the next date fixed in this case. The petitioner is also to abide by the conditions 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 13.04.2023 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.

01.08.2023
SN

(MAHABIR SINGH SINDHU)
JUDGE

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