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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22253-2023
Date of decision : 17.10.2023

SURESH KUMAR

....Petitioner

Versus

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vikas Bishnoi, Advocate
for the petitioner.

Mr. A.K. Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (ORAL)

On 27.07.2023, the following order was passed :-

On 04.05.2023, the following order was passed:-

“Learned counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in this case; the petitioner has no other case under the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short – the NDPS Act) pending against him; the only evidence collected by the State against the petitioner is an alleged disclosure statement of a coaccused in police custody which has no evidentiary value; no recovery of any narcotics/drug has been made from the petitioner; even if the case of the prosecution is taken as the gospel truth, through vehemently denied, the alleged recovery from co-accused Parveen is 147 grams of opium which is classified as “non-commercial” under the NDPS Act and that the petitioner is also ready and willing to join and cooperate with the investigation.

Notice of motion.

Mr. Viney Phogat, DAG, Haryana accepts notice on

behalf of the respondent-State.

For arguments, adjourned to 27.07.2023.

Till the adjourned date the petitioner's arrest is stayed.

Before the adjourned date, the State shall file a status report on the consideration of which further orders shall be passed in the present petition. ”

Status report by way of affidavit dated 25.07.2023 of Virender Singh, H.P.S., Deputy Superintendent of Police, Ellenabad, District Sirsa (Haryana) has been filed on behalf of respondent-State in the Court today. The same is taken on record. Copy supplied counsel opposite.

Learned State counsel submits that the petitioner has not joined the investigation.

On the other hand, learned counsel for the petitioner submits that petitioner is ready to join the investigation.

The petitioner is directed to join investigation. 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 upn on 17.10.2023.”

2. Today, Ld. State Counsel on instructions from SI Surender Singh submits that the petitioner has already joined investigation and is no more required for custodial interrogation.
3. Without commenting on the merits of the case and in view of the aforesaid fact, order dated 27.07.2023 is made absolute, subject to the conditions as enumerated under Sections 438(2) Cr.P.C.
4. This order should not be treated as "blanket" order. It will not

be read granting the petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

5. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency to investigate into the charges against the petitioner.

6. The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.

7. It will be open to the police or the investigating agency to move this Court for a direction under Section 439(2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

8. Petition stands disposed off accordingly.

October 17, 2023
Dpr (Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No