

**208 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRM M-25296-2023 (O&M)****Date of Decision: 27.07.2023**

Sahil

.....Petitioner

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Deepak Kohli, Advocate for
Mr. J.K. Singla, Advocate,
for the petitioner.

Mr. Jaiteshwar S. Bhandari, AAG 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.49 dated 11.04.2023, under Sections 21(b), 27 & 29 of NDPS Act, 1985 registered at Police Station City Budhlada, District Mansa.

2. Petitioner has been nominated in the present case on the basis of disclosure of co-accused, namely, Ravneet Kumar @ Veenu; however, recovery of 40 grams of heroin (non-commercial) was allegedly effected from another co-accused, namely, Harpreet Singh @ Chitta. There is no recovery from the petitioner.

3. The Coordinate Bench vide order dated 18.05.2023, granted interim bail to petitioner and the same reads as under:-

“The instant petition under Section 438 Cr.P.C., has been filed for grant of anticipatory bail to the petitioner in FIR No.49, dated 11.04.2023, under Sections 21 (b), 27 & 29 of NDPS Act,

1985 (Act No.61 of 1985), registered at Police Station City Budhlada, District Mansa (Annexure P-1).

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case on the basis of disclosure statement of co-accused namely Ravneet Kumar alias Venu and the recovery of alleged contraband i.e., 40 gram heroin is non-commercial in nature was recovered from a plastic bag of black colour from the possession of another co-accused namely Harpreet Singh alias Chitta.

Notice of motion.

On the asking of Court, Mr. Rajiv Verma, DAG, Punjab, accepts notice on behalf of respondent-State, who on instructions from ASI Salwinder Singh submits that the petitioner is involved in one another case in which also recovery of contraband is 40 gram heroin, which is non-commercial in nature.

Looking into the totality of facts that no recovery has been effected from the possession of the petitioner admittedly and he has been implicated on the basis of disclosure statement of co-accused added with the fact that the alleged recovery is non-commercial in nature. As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “Baljinder Singh alias Rock vs. State of Punjab” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would lend the petitioner in a situation of denial the concession of bail.

In light of the above discussions made hereinabove, the petitioner is directed to be released on interim bail in case, he joins the investigation on furnishing personal surety/security bonds

to the satisfaction of Arresting Officer/Investigating Officer. The petitioner will also come present as and when called for and cooperate in investigation and shall abide by the conditions as envisaged under Section 438(2) 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 18.05.2023 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.

27.07.2023

SN

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable: Yes/No