

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-30869-2023

Date of decision : 28.08.2023

SHERA SINGH @ GUDDU

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Robindeep S. Bhullar, Advocate for
Mr. Parminder Singh Sekhon, Advocate for the petitioner.

Mr. Amit Shukla, AAG, Punjab

PANKAJ JAIN, J. (ORAL)

On 19.06.2023, the following order was passed :

“Apprehending his arrest in FIR No.42 dated 21.05.2023, registered under Sections 15 of NDPS Act, 1985 at Police Station Ghagga, District Patiala, petitioner seeks pre-arrest bail.

Learned counsel for the petitioner inter alia submits that it is highly improbable that the petitioner would run away and moreover, recovery effected from the car, which the petitioner is alleged to have been boarding, is 10 kgs of poppy husk which will be less than the commercial quantity and thus, would not invite rigors of Section 37 of the NDPS Act.

Notice of motion 28.08.2023.

On the asking of the Court, Mr. H.S. Sitta, DAG, Punjab, appears and accepts notice on behalf of the respondent-State.

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.”

2. Today, Ld. State Counsel on instructions from ASI Balwinder Kumar submits that the petitioner has already joined investigation and is no more required for custodial interrogation.

3. Apart from that counsel for the petitioner submits that the petitioner has been nominated merely on the basis of disclosure made by co-accused and no recovery has been effected from his conscious possession.

4. Without commenting on the merits of the case and in view of the aforesaid fact, order dated 19.06.2023 is made absolute, subject to the conditions as enumerated under Sections 438(2) Cr.P.C.

5. 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.

6. 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.

7. 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.

8. 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.

9. Disposed off accordingly.

August 28, 2023

Dpr

(Pankaj Jain)

Judge

Whether speaking/reasoned : Yes/No