

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

CRM-M No.31991 of 2023 (O&M)

Date of decision : 17.08.2023

Vinod Kumar

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. D. S. Virk, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

PANKAJ JAIN, J. (ORAL)

1 While issuing notice of motion on 18.07.2023 the following order
was passed:-

*“Present petition has been filed under Section 438 Cr.P.C
for the grant of anticipatory bail in respect of FIR No.54 dated
06.03.2020 under Section 15/61/85 of NDPS Act registered at
Police Station Kalanwali, District Sirsa.*

*Learned counsel for the petitioner submits that there is a
chance of recovery from co-accused Vakil Singh @ Vakila of 03
kgs 920 grams of Doda Chura Post and the petitioner has only
been roped in on the basis of disclosure statement of said co-
accused. Learned counsel further submits that no other material
has come on record to implicate the petitioner and as the
petitioner is ready to join the investigation and co-operate with the
same, he be granted the concession of anticipatory bail.*

*Learned State counsel submits in some similar
circumstances, Hon’ble Supreme Court of India while passing
order in SLP (Crl.) No.1266 of 2023 titled as Vijay Singh Vs. The*

State of Haryana (Annexure P-4) has already accorded the concession of anticipatory bail where the person has been roped in on the basis of disclosure statement of a co-accused. Learned counsel further submits that though the petitioner is also involved in another case but, in the said case also, the petitioner has been roped in on the basis of disclosure statement.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the facts of the present case as the recovery of the contraband from the co-accused is more than the small quantity coupled with the fact that no other material than the disclosure statement has been brought to the notice of this Court against the petitioner, hence this Court is of the view that the purpose of investigation will be achieved in case the petitioner is directed to join the investigation and cooperate with the same.

As the petitioner has undertaken to join the investigation and co-operate with the same, he has made out a case for the grant of anticipatory bail.

Petitioner is directed to join the investigation forthwith.

In the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting Officer/Investigating Officer on his furnishing bail bonds/surety bonds to his/her satisfaction subject to the following conditions:

i) That he shall make himself available for interrogation by the police officer as and when required. (ii) That he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the said facts to the Court or to any police officer. (iii) That he shall not leave India without prior permission of the Court. (iv) That he shall abide by all the conditions as enshrined under Section 438 (2) Cr.P.C.

Adjourned to 17.08.2023.

It is, however, made clear that after the petitioner joins the investigation, in case any incriminating material comes against the petitioner, the respondent-State will be at liberty to file

appropriate application seeking the custody of the petitioner in case, the same is needed..”

2 Today, learned State counsel, on instructions from ASI Naresh Kumar has stated that pursuant to the order dated 18.07.2023 the petitioner has joined investigation and is no longer required for custodial interrogation.

3. Apart therefrom it is a matter wherein the co-accused has been found to be in possession of a contraband which is more than small quantity and less than commercial quantity and apart from the disclosure statement of said co-accused there is nothing against the petitioner and the clean antecedents of the petitioner also add upto enure the benefit to him.

4. In view of above the interim order dated 18.07.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

5. This order should not be treated as "blanket" order. It will not be read granting 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, 1872 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. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

17.08.2023
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(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes
No