

2023:PHHC:127944

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

213

CRM-M-31955-2023

Date of decision : 03.10.2023

Nitin Kumar

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Kamal Narula, Advocate
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. While issuing notice of motion on 17.07.2023, following order was passed:-

“Apprehending his arrest in FIR No, 72 dated 15.07.2022 for offences punishable under Sections 15/61/85 of NDPS Act, 1985 registered at Police Station Bahawal, District Fazilka the petitioner has preferred this petition under Section 438 Cr.P.C seeking pre-arrest bail.

Learned counsel for the petitioner inter alia contends that the petitioner has been non-suited on the ground that being juvenile he was not entitled to invoke Section 438 Cr.P.C, however a different view has been taken by the Allahabad High Court in the case of Mohammad Zaid Vs. State of U.P.and another No.8361 C decided on 24.05.2023.

Notice of motion.

Mr. Tarun Aggarwal, Senior DAG., Punjab who is present in Court accepts notice on behalf of the State.

2023:PHHC:127944

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 up on 03.10.2023.”

2. Today, learned State counsel, on instructions from ASI Balvir Singh, has stated that pursuant to the order dated 17.07.2023, the petitioner has joined investigation and is no longer required for custodial interrogation.

3. In view of above, the interim order dated 17.07.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

4. 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.

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, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.

2023:PHHC:127944

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. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.
9. Disposed off accordingly.

(PANKAJ JAIN)
JUDGE

03.10.2023

Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No