

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

**CRM-M No.33348 of 2023
Date of Decision: 25.09.2023**

Amir Khan	Versus	Petitioner
State of Punjab		Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. P.S. Dhaliwal, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. D.A.G., Punjab.

PANKAJ JAIN, J. (ORAL)

1. While issuing notice of motion on 14.07.2023 the following order was passed:-

Apprehending his arrest in FIR No.580, dated 17.12.2022, registered for offences punishable under Sections 21, 22, 25 (Act No.61) of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station City Barnal, District Barnala, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

Ld. Counsel for the petitioner inter alia contends that one Malkit Singh @ Lakhi was initially apprehended which led to recovery of contraband. Malkit Singh @ Lakhi suffered a disclosure statement wherein he nominated one Rashid. On the basis of disclosure made by Malkit Singh @ Lakhi when Rashid was apprehended 92 strips of intoxicant tablets make TRAMWEI SR-100 i.e. Tramadol Prolonged-release Tablets IP total making 920 tablets were recovered from the Scorpio Car he was travelling in. Rashid when interrogated suffered a disclosure statement and allegedly nominated the present petitioner Amir Khan. Counsel further relies upon law laid down by the Apex Court in the case of Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1 to submit that such disclosure being a weak piece of evidence cannot lead to

conviction of the petitioner.

Issue notice of motion.

Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of the respondent/State and submits that from Malkit Singh there is a huge recovery of 600 strips of Alprasafe 0.5 (each strip containing 10 tablets i.e. 6000 tablets) and Rashid has not only nominated the present petitioner but the Scorpio car from which the recovery has been made has also been found to be under the ownership of the petitioner. However he does not dispute that the FSL report qua the contraband recovered from Rashid is still awaited. Adjourned to 25.09.2023.

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. However, in addition to the conditions enumerated under Section 438(2) Cr.P.C., the petitioner shall be bound by the following conditions :

- (i) The petitioner shall not mis-use the liberty granted.*
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.*
- (iii) The petitioner shall not absent himself on any date before the trial/investigating agency.*
- (iv) The petitioner shall not commit any offence similar to the one alleged in the present case.*
- (v) The petitioner shall deposit his passport, if any with the trial Court/Investigating Officer.*
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.*
- (vii) The petitioner shall not in any manner try to delay the trial.*

2. Today, Mr. Tarun Aggarwal, Punjab, on instructions from Naib Singh ASI has stated that pursuant to the order dated 14.07.2023 the petitioner has joined investigation and is no longer required for custodial interrogation.

3. In view of above, the interim order dated 14.07.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

4. This order 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.

5. 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.

6. 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.

7. Petition stands disposed off.

8. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

9. Pending application(s), if any, shall also stand disposed of.

**(PANKAJ JAIN)
JUDGE**

25.09.2023

Deepak Patwal

Whether speaking/reasoned:
Whether reportable:

Yes/No