

2023:PHHC:128948

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

213

**CRM-M-33609-2023
Date of decision : 04.10.2023**

Harbans Lal @ Bansa

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. K.S. Cheema, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, 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. 0107 dated 23.05.2023 for offences punishable under Sections 15/61/85 and 29 of NDPS Act, 1985 registered at Police Station Mahilpur, District Hoshiarpur, 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 nominated by taking aid to Section 29 of the NDPS Act having been nominated by the co-accused from whom recovery of 20 kg. of poppy husk has been made. He further relies upon the orders passed by the Supreme Court in Special Leave to Appeal (Crl.) No.1266/2023 decided on 17.05.2023 which reads as under:-

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“The petitioner is alleged to have committed offences Sections 15 and 29 of the Narcotic Drugs and 1985 (hereinafter called the under Psychotropic Substances Act, NDPS Act”. His application for anticipatory bail was rejected by the High Court. The allegations in the FIR are Chat 1.7 Kg of Poppy Straw (Doda Post) was recovered from the co-accused. The petitioner concededly was not present at the spot but was named by the co-accused. That apart there is no other material to implicate the petitioner. The prosecution urges that another case with allegations of commission of offence under NDPS Act are pending against the petitioner. It is not denied that in those proceedings he was granted bail.

Having regard to these circumstances, the petitioner is directed to the enlarged on anticipatory bail, subject to such terms and conditions as the trial Court may impose.

The petition is allowed.

All pending applications are disposed of.”

Notice of motion.

Mr. Tarun Aggarwal, Senior DAG., Punjab who is present in Court accepts notice.

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.

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To come up on 04.10.2023.”

2. Today, learned State counsel, on instructions from ASI Balwinder 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.

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.

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- 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

04.10.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No