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

**CRM-M-35540-2023 (O&M)
Date of decision : 31.10.2023**

Sunny Khajuria

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Karan Choudhary, Advocate,
for the petitioner.

Mr. Joginder Pal Ratra, Sr. DAG, Punjab.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.0060 dated 24.11.2022, under Sections 21(b), 21(c) 27(a) and 29 of the Narcotic Drugs and Psychotropic Substances, Act, 1985 (*for short 'the NDPS Act'*), registered at Police Station Behrampur, District Gurdaspur.

2. As per the prosecution story, on the basis of disclosure made by the main accused, namely, Rajan, one Sandeep @ Happy was arrested, who further disclosed the name of petitioner as supplier of contraband.

3. Learned counsel contends that in terms of the order dated 27.07.2023, petitioner has already joined investigation and his custodial interrogation is not required. Further contends that petitioner has been

falsely implicated in the present case on the basis of disclosure made by the co-accused. No recovery was effected from the petitioner.

4. Learned State counsel, while opposing the prayer, submitted that though, petitioner has joined the investigation, but he is not cooperating. Further contended that petitioner has been involved in 01 more case under the NDPS Act.

5. Heard learned counsel for the parties and perused the paper-book.

6. On 27.07.2023, this Court granted interim pre-arrest bail to the petitioner and relevant part of the order reads as under:-

“Learned State counsel seeks more time for filing response in pursuance of order dated 25.07.2023.

Learned counsel for the petitioner submits that on the basis of disclosure made by the main accused-Rajan, one Sandeep was arrested in the present case. Thereafter, petitioner has been nominated as an accused on the basis of disclosure made by said Sandeep.

Posted on 31.08.2023.

In the meanwhile, petitioner shall join investigation before the Investigating Officer. In the event of his arrest, the Arresting Officer would admit him to interim bail, till the next date of hearing, on furnishing adequate bail and surety bonds to his satisfaction. The petitioner shall also abide by all the conditions as envisaged under Section 438(2) of the Code of Criminal Procedure, 1973.”

7. It is also not in dispute that above order has been extended from time to time and continuing till date.

8. Concededly, petitioner is involved in another criminal case bearing FIR No.88 dated 28.06.2021, under Sections 21 & 29 of the

NDPS Act, registered at Police Station Sadar, District Pathankot. In the present case, allegations are that petitioner indulged in the sale and purchase of heroin. In such a scenario, to find out the truth, custodial interrogation of the petitioner would be the only way out.

9. Therefore, keeping in view the antecedents of the petitioner as well as rigors of Section 37 of the NDPS Act, this Court is not inclined to accept the prayer.

10. As a result thereof, there is no option except to dismiss the petition.

11. Ordered accordingly.

12. Needless to say that interim protection granted to the petitioner vide order dated 27.07.2023 and extended subsequently, shall come to an end, automatically.

13. Also clarified that observations made above shall not be construed as an expression of opinion on merits of the controversy, in any manner.

14. Pending application(s), if any, shall also stand disposed off.

31.10.2023

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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :

Yes

No

Whether Reportable :

Yes

No