

2023:PHHC:149007

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

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CRM-M-36395-2023

Date of decision : 15.11.2023

Malkeet Singh

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Munish Gulati, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. While issuing notice of motion on 22.08.2023, following order was passed:-

“Apprehending his arrest in FIR No.09 dated 09.03.2021, registered for offences punishable under Sections 21, 23(c), 24, 29 of the NDPS Act, 1985, Section 25 of Arms Act, 1959, Section 14 of Foreign Act, 1946 and Section 3 of Identification of Prisoner Act, 1920 at Police Station SSOC Amritsar, District Amritsar, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

Ld. Counsel for the petitioner would submit that there is no incriminating evidence against the petitioner. Even in the FIR the only allegation is w.r.t. having nominated by Balwinder Singh @ Binder Gandhi.

Issue notice of motion, returnable for 15.11.2023.

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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. Apart from the conditions that may be imposed by the Investigating Authorities/Trial Court, the petitioner shall also remain 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 course of investigation/trial.
- (iii) The petitioner shall not absent himself on any date before the investigation/trial.
- (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 Investigating Authorities/Trial Court.
- (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/ Investigating Authorities.
- (vii) The petitioner shall not in any manner try to delay the investigation/trial.

In case of breach of any of the aforesaid conditions and those which may be imposed by the Investigating Authorities/Trial Court, the

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prosecution shall be at liberty to move cancellation of bail of the petitioner.”

2. Today, learned State counsel, on instructions from ASI Balwinder Singh, has stated that pursuant to the order dated 22.08.2023, the petitioner has joined investigation and is no longer required for custodial interrogation.

3. In view of above, the interim order dated 22.08.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C and to comply with 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.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any with the trial Court.
- (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.

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.

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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.
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

15.11.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No