

221

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

CRM-M-39041-2023
Date of decision : 07.11.2023

SUKHVIR SINGH @ SUKHBIR

....Petitioner

Versus

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Atul Lakhanpal, Sr. Advocate with
Ms. Caral Aggarwal, Advocate for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (ORAL)

On 01.09.2023, the following order was passed :-

“Apprehending his arrest in FIR No.130, dated 23.12.2022, registered for offences punishable under Sections 15/61/85 of the NDPS Act, 1985 at Police Station Mehna, District Moga, Punjab, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

As per the case of the prosecution one secret information was received disclosing that the petitioner along with Bhag Singh alias Bhaga are indulging in smuggling of poppy-husk and have further selling the same thereby committed an offence punishable under the NDPS Act. On the basis of the said secret information godown/plot near the road was raided. From where huge quantity of poppy-husk was recovered from Truck, Bolero and Chhota Hathi. Admittedly, none of the aforesaid vehicles belongs to the petitioner. Bhag Singh already stands admitted to pre-arrest bail vide order dated 23rd of March, 2023 passed by a Co-ordinate Bench in CRM-M-2924-2023. Bhag Singh further

nominated one Gurmeet Singh @ Laddu and Gurcharan Singh son of Amar Singh and the godown also does not belong to the petitioner. The same belongs to one Jaswinder Singh.

Senior Counsel representing the petitioner thus submits that the petitioner would be entitled for pre-arrest bail as no recovery has been made from him and apart from alleged recovery of his Aadhar Card there is nothing against him. Bhag Singh already stands admitted to bail.

Adjourned to 07.11.2023.

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.”

2. Today, Ld. State Counsel on instructions from ASI Davinderjit Singh submits that the petitioner has already joined investigation and is no more required for custodial interrogation.
3. Without commenting on the merits of the case and in view of the aforesaid fact, order dated 01.09.2023 is made absolute, subject to the conditions as enumerated under Sections 438(2) Cr.P.C.
4. This order should not be treated as "blanket" order. It will not be read granting the 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 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. Petition stands disposed off accordingly.

November 07, 2023		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No