

CRM-M-40486-2023

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2023:PHHC:141617

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

CRM-M-40486-2023
Date of decision : 07.11.2023

BALJINDER SINGH @ GIANI

....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Aman Kumar, Advocate for
Mr. Piyush Sharma, Advocate for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (ORAL)

While issuing notice of motion on 18.08.2023, the following
order was passed :-

“Apprehending his arrest in FIR No.06 dated 27.01.2021,
registered under Sections 377/506 IPC and Section 3, 4 of
Protection of Children from Sexual Offences Act, 2019 and later
on Section 67 of Information Technology Act added at Police
Station Mamdot, District Ferozepur, petitioner seeks pre-arrest
bail.

Learned counsel for the petitioner *inter alia* submits that
before passing of the impugned order dated 06.07.2023
(Annexure P-1) trial *vis-a-vis* main accused i.e. Aman @
Amandeep stood concluded vide judgment dated 07.02.2023 and
thus the order passed would be directly in conflict with the
judgement passed by Constitution Bench in the case of ***Sukhpal
Singh Khaira Vs. State of Punjab, 2022 SCC OnLine SC 1679.***

Notice of motion for 07.11.2023.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent-State.

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. The petitioner has been summoned as additional accused invoking Section 319 Cr.P.C.
3. Order dated 2nd of September, 2023 has been produced. As per which the petitioner appeared and surrendered before the Trial Court and stands admitted to bail.
4. Without commenting on the merits of the case and in view of the aforesaid fact, order dated 18.08.2023 is made absolute, subject to the conditions as enumerated under Sections 438(2) Cr.P.C.
5. 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.
6. 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.
7. 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.

8. 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.

9. Petition stands disposed off accordingly.

November 07, 2023
Dpr (Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No