

204

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

**CRM-M-48709-2022 (O&M)
Date of decision : 21.07.2023**

Balwinder Kumar

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Ms. Sarika Gupta, Advocate,
for the petitioner.

Mr. Jaiteshwar S. Bhandari, AAG, Punjab.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of pre-arrest bail to the petitioner in FIR No.50 dated 25.07.2022, under Sections 21 & 22 of the Narcotic Drugs and Psychotropic Substances, Act, 1985 (*for short 'the Act'*) registered at Police Station City Banga, District SBS Nagar.

2. It transpires that petitioner was found in possession of 100 intoxicating tablets along with 01 (one) gram of heroin.

3. The Coordinate Bench vide order dated 20.10.2022 granted interim bail to the petitioner and relevant part of the same reads as under:-

*“The petitioner seeks grant of anticipatory
bail in respect of a case registered vide FIR No.50 dated*

25.07.2022 at Police Station City Banga, District SBS Nagar, under Sections 21/22 of the NDPS Act.

The case of the prosecution in nutshell is that a clean shaven person was noticed by the police while carrying an envelope/bag in his left hand. Upon noticing the police party, he threw the said envelope/bag by the side of the canal and tried to turn back. However, he was apprehended by the police and upon inquiry disclosed his name as Raj Kumar @ Raja (co-accused/non-applicant). Search of the envelope/bag thrown by him led to recovery of 100 white coloured tablets apart from 1 gram of 'heroin'. The tablets upon chemical analysis were found to contain 'Tramadol Hydrochloride' and 'Diacetylemorphine'. It is further the case of the prosecution that during the course of interrogation, he disclosed that he had procured the same from one Balwinder Kumar (petitioner).

It is the case of the petitioner that he has falsely been implicated in the instant case on the basis of a disclosure statement, which would not be admissible in evidence in the absence of any other corroborative evidence. It is further the case of the petitioner that the recovered contraband falls within the category of 'non commercial quantity' and that co-accused Raj Kumar @ Raja from whom recovery was effected had already been granted bail by the trial Court.

Notice of motion for 11.04.2023.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C."

4. Contends that in terms of the aforesaid order, petitioner has already joined the investigation and his custodial interrogation is not required.
5. The above factual position is duly acknowledged by learned State Counsel, on instructions from the police officer concerned and further stated that custodial interrogation of petitioner is not required at this stage.
6. In view of above, interim order dated 20.10.2022 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
7. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.
8. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
9. Disposed off accordingly.

21.07.2023
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No