

2023:PHHC:140662

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

214

CRM-M-60759-2022

Date of decision : 02.11.2023

Anil**..... Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Daljeet Singh Virk, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. While issuing notice of motion on 07.07.2023, following order was passed:-

“On 04.01.2023, notice of motion was issued in the present case observing as under:-

“Present petition is under Section 438 Cr.P.C. for seeking anticipatory bail to the petitioner in case FIR No.367 dated 14.08.2022 registered under Section 15 (b) of NDPS Act, at Police Station Sadar Dabwali, District Sirsa.

Learned counsel for the petitioner contends that as per the prosecution, 06 Kilograms of poppy straw have been recovered from the possession of Harjinder Singh. During the course of his interrogation, he disclosed that the contraband has been purchased from one Rinku, the son of Mahavir Jabrala. The petitioner is working as Incharge of a liquor vend. He is not known by the name of Rinku and even, his father is not Mahavir Jabrala. It is a

2023:PHHC:140662

case of mistaken identity. Even, the contraband recovered from Harjinder Singh falls in the category of less than commercial quantity. Though, the petitioner is involved in 04 other cases but the same are under IPC and the petitioner is on bail in all the three cases and he is not involved in any other case under NDPS Act.

Notice of motion.

Mr. Ranvir Singh Arya, Addl. AG, Haryana accepts notice on behalf of the respondent-State and seeks time to get instructions in the matter.

Adjourned to 06.01.2023.”

Status report was filed by the State which shows that the petitioner is facing 07 more FIRs including 01 FIR No.177 dated 14.08.2022, registered for the offences punishable under Sections 15/61/85 of NDPS Act, Police Station Odhan. Counsel for the petitioner sought time to seek instructions qua that on 27.04.2023.

Today, counsel for the petitioner submits that out of 07 FIRs as detailed out in para No.8 of the status report in FIR mentioned at serial No.(iii), the petitioner has earned acquittal and in the remaining 06 FIRs, he is on bail. Counsel further submits that in FIR No.177, the other FIRs under NDPS Act, the petitioner was granted concession of pre-arrest bail and the allegations levelled in the FIR are somewhat similar to the one which have been levelled against the petitioner in the present FIR. Recovery of 06 kg of poppy straw has been effected from the main accused Harjinder Singh and not from the petitioner. It is on his disclosure that the petitioner has been nominated.

Adjourned to **26.09.2023.**

In the meantime, in the event of arrest, the

2023:PHHC:140662

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, learned State counsel, on instructions from SI Mani Singh, has stated that pursuant to the order dated 07.07.2023, the petitioner has joined investigation and is no longer required for custodial interrogation.

3. In view of above, the interim order dated 07.07.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

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.

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,

2023:PHHC:140662

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

02.11.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No