

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9326-2024
Date of decision : 01.05.2024

AJAYPetitioner

Versus

STATE OF PUNJAB ...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Dhiraj Jindal, Advocate for
Mr. Sahil Siddharth Jain, Advocate for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (ORAL)

On 21.02.2024, the following order was passed :-

Apprehending his arrest in FIR No.307 dated 14.12.2023, registered for offences punishable under Sections 15 and 29 of the Narcotic Drugs & Psychotropic Substances Act, (Act 61 of 1985), at Police Station Patran, District Patiala, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

Ld. Counsel for the petitioner inter alia contends that the petitioner has been nominated on the basis of disclosure made by co- accused who was apprehended and found to be in possession of 100 kilograms of poppy husk. Apart from the disclosure statement of co- accused there is no incriminating evidence and such disclosure cannot be the sole consideration to drive-home guilt against the petitioner as per the dictum of law laid down by the Supreme Court in **Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1**. The petitioner has clean antecedents.

Issue notice of motion, returnable for 01.05.2024.

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. Today, Ld. State Counsel on instructions from ASI Jagtar Ram 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 21.02.2024 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.

May 01, 2024
Dpr

(Pankaj Jain)
Judge

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