

2024:PHHC:058350

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

214

CRM-M-10281-2024
Date of decision : 25.04.2024

Vinod Kumar Petitioner

versus

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Tarun Sharma, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. While issuing notice of motion on 28.02.2024, following order was passed:-

“Apprehending his arrest in FIR No.299 dated 25.11.2023, registered for offences punishable under Sections 18(b) of NDPS Act, 1985 (Sections 29/61/85 of NDPS Act, 1985 added later on) at Police Station Ismailabad, District Kurukshetra, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

Counsel for the petitioner *inter alia* submits that the petitioner has been nominated on the basis of disclosure made by Umesh. Prime accused Arun Kumar @ Tinku was apprehended on 25.11.2023 and was allegedly found to be in conscious possession of 1 kg 309 gm. of opium. As per the disclosure suffered by Arun, one Umesh was nominated, who was arrested on 26.11.2023.

2024:PHHC:058350

Umesh is stated to have suffered disclosure on the same date i.e. on 26.11.2023, where he nominated one Vinoj Bihari resident of Bihar. However as per prosecution, he later on resiled from his statement. Umesh again has suffered disclosure on 27.11.2023, wherein he disclosed the name of the present petitioner as the source of contraband.

State counsel has read the disclosure of Umesh in the Court as per which Umesh is stated to have source of contraband from Vinod Kumar i.e. the present petitioner and further sold to Arun. Counsel for the State on specific query admits that so far as Arun and present petitioner is concerned as per the disclosure made by Umesh, there is no direct deal.

Notice of motion for **25.04.2024**.

Mr. Gaurav Bansal, DAG, Haryana, 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, learned State counsel, on instructions from ASI Sandeep Kumar, has stated that pursuant to the order dated 28.02.2024, the petitioner has joined investigation and is no longer required for custodial interrogation.

3. In view of above, the interim order dated 28.02.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

2024:PHHC:058350

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, 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

25.04.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No