

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

CRM-M-49036-2022

Date of decision : 05.03.2024

ARJUN KUMAR ALIAS NONI

....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Piyush Khanna, Advocate for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (ORAL)

On 09.11.2022, the following order was passed :-

“Prayer is for grant of anticipatory bail to the petitioner in criminal case having FIR No.211 dated 26.8.2022 registered under Sections 22, 29, 61, 85 of NDPS Act at Police Station City, District Hoshiarpur.

Counsel for the petitioner submits that the petitioner was not named in the FIR and was later on, nominated as accused on the basis of the alleged disclosure made by co-accused Aman Sharma @ Pandit from whom 90 grams of intoxicating powder was stated to be recovered by the police. He further submits that the alleged disclosure made by co-accused is inadmissible in evidence. He further contends that in the absence of report of FSL, it cannot be said at this stage as to whether aforesaid 90 grams of substance recovered from co-accused Aman Sharma @ Pandit falls under NDPS Act or not. He further submits that the petitioner is already facing 4 other cases under NDPS Act but in all those cases, he is on bail and that the petitioner is ready to join the investigation with the police.

Notice of motion.

Mr. C.L.Pawar, Addl. AG, Punjab accepts notice on behalf of the State and on instructions from ASI Deepankar Singh has not disputed the fact that report of FSL is still awaited and prays for time to verify the fact as to whether in other cases registered under NDPS Act, the petitioner is given benefit of bail.

In the absence of report of FSL, it is difficult to say as to whether 90 grams of intoxicating powder recovered from co-accused falls under the purview of NDPS Act at this stage.

Now be listed on 19.12.2022.

In the meantime, in case of arrest, the petitioner is directed to be released on interim bail by the IO/Arresting Officer to his own satisfaction till the next date of hearing. The petitioner should

join the investigation with the police well in time before the next date of hearing and is to abide by the conditions as envisaged under Section 438(2) of Cr.P.C.”

2. Today, Ld. State Counsel on instructions from ASI Nanak singh 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 09.11.2022 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.

March 05, 2024
Dpr

(Pankaj Jain)
Judge

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