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

CRM-M-56515-2023 (O&M)

Date of decision : 25.01.2024

Naresh Kumar

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. D.S. Virk , Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana,
assisted by SI Satyawar.

MAHABIR SINGH SINDHU, J.

Petition under Section 438 of the Code of Criminal Procedure, 1973 has been filed for grant of pre-arrest bail to the petitioner in FIR No.708 dated 05.09.2023, under Sections 21-b of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station, Civil Line, District Sirsa.

2. Petitioner was nominated in the present case on the basis of disclosure made by co-accused-Ved Parkash, who was apprehended while in possession of 73 grams Heroin.

3. A Coordinate Bench, on 09.11.2023, granted interim bail to petitioner and relevant part of the same reads as under:-

*“Prayer in the present petition under Section 438 Cr.P.C.
for grant of anticipatory bail in case FIR No.708 dated 05.09.2023
under Section 21-B NDPS Act, 1985 registered at Police Station
Civil Line, Sirsa, District Sirsa (Annexure P-1)*

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and has been nominated as an accused on the disclosure statement of his co-accused Ved Prakash, who was apprehended at the spot and a recovery of 73 grams heroin (non-commercial quantity) was effected from him. Other than the disclosure statement, there is no other material to connect the petitioner with the commission of crime. The petitioner is on bail in other case under the Narcotic Drugs and Psychotropic Substances Act, wherein 3 grams 85 miligrams heroin alongwith 200 Tramadol Hydrochloride tablets were recovered from him. It is further submitted that petitioner was not present at the spot and no recovery has been effected from him in this case. Petitioner is ready to join investigation and cooperate with the investigating agency.

Notice of motion.

Ms. Ambika Sood, Addl. A.G. Haryana, accepts notice on behalf of respondent-State and waives service. She opposes the petition on the ground that petitioner while being on regular bail granted vide order dated 22.11.2021, indulged in another case under the Narcotic Drugs And Psychotropic Substances Act, besides having other criminal antecedents. She seeks time to file reply/status report.

List on 18.12.2023.

In the meanwhile, petitioner shall join the investigation and would associate as and when called. In the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal bond and surety to the satisfaction of Arresting Officer/Investigating Officer. The petitioner shall abide by the conditions specified in Section 438(2) Cr.P.C.”

4. Contends that in terms of the aforesaid order, petitioner has already joined investigation and his custodial interrogation is not required. Also contends that apart from the disclosure made by the co-accused, Ved Prakash, there is no material with the police regarding complicity of the petitioner.

5. Above factual position is duly acknowledged by learned State Counsel, on instructions from SI Satyawar and further stated that custodial interrogation of the petitioner is not required at this stage.
6. In view of above, interim order dated 09.11.2023 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. Also clarified that in case of recurrence on the part of petitioner, State of Haryana would be at liberty to move an application for recalling of this order, as per law.
9. 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.
10. Disposed off accordingly.
11. Pending application(s), if any, shall also stand disposed off.

25.01.2024

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(MAHABIR SINGH SINDHU)
JUDGE

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