

2024:PHHC:023588

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

222

CRM-M-56669-2023
Date of decision : 20.02.2024

Barkat Ali @ Bhai Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. J.S. Thind, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. While issuing notice of motion on 09.11.2023, following order was passed:-

“Apprehending his arrest in FIR No.23 dated 10.04.2022, registered for offences punishable under Sections 302/452/323/324/325/379-B/148/149 of the Indian Penal Code, 1860 at Police Station Mattewal, Amritsar, 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 only allegation as per the FIR against the petitioner was of being part of unlawful assembly and during the trial the material witnesses have not supported the prosecution. No overt act has been attributed to the petitioner.

Issue notice of motion, returnable for 20.02.2024.

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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, learned State counsel, on instructions from the Investigating Officer, has stated that pursuant to the order dated 09.11.2023, the petitioner has joined investigation and is no longer required for custodial interrogation.

3. In view of above, the interim order dated 09.11.2023 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.

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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

20.02.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No