

2024:PHHC:040563
2024:PHHC:040564

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

206

Date of decision : 19.03.2024

1. CRM-M-59761-2023

Lazar Singh Petitioner

versus

State of Punjab Respondent

2. CRM-M-59763-2023

Gazar Singh Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Kanav Gupta, Advocate for
Mr. Hitesh Chopra, Advocate
for the petitioners.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. While issuing notice of motion on 12.12.2023, following order was passed:-

“Apprehending their arrest in FIR No.41 dated 09.10.2023, registered under Sections 21/23(C), 27(A), 29 of NDPS Act at Police Station SSOC, District Amritsar, petitioners seek pre-arrest bail.

Learned counsel for the petitioners *inter-alia* submits that there is no recovery from the petitioners. The only recovery is from the co-accused that too of 23 grams of heroin and the petitioners are being nominated merely on the basis of disclosure statement. He further relies upon dictum of law laid

2024:PHHC:040563
2024:PHHC:040564

down in *Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1* to submit that the disclosure made by co-accused in police custody cannot be relied upon solely to implicate the petitioners.

Notice of motion for 19.03.2024.

On the asking of the Court, 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 petitioners shall be released on interim bail subject to their furnishing personal and surety bonds to the satisfaction of the arresting officer/Investigating Officer. As and when called, the petitioners shall join the investigation. They shall abide by the conditions enumerated under Section 438(2) of the Cr.P.C.

Photocopy of this order be placed on the connected file.”

2. Today, learned State counsel, on instructions from ASI Resham Singh, has stated that pursuant to the order dated 12.12.2023, the petitioners have joined investigation and are no longer required for custodial interrogation.

3. In view of above, the interim order dated 12.12.2023 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 petitioners 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

2024:PHHC:040563
2024:PHHC:040564

charges against the petitioners.

6. The petitioners 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 petitioners 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.

10. A photocopy of this order be placed on the file of other connected case.

(PANKAJ JAIN)
JUDGE

19.03.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No