

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

**CRM-M-62604-2023 (O&M)
Date of decision : 15.02.2024**

Sahil

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Ms. Himani Anand, Advocate for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.514 dated 07.08.2022, under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar Thanesar, District Kurukshetra.

(2) Allegations are that co-accused Deepanker Sethi was found in possession of 6.10 grams of *heroin/smack* without any license and petitioner has been nominated on the basis of disclosure, made by aforesaid co-accused.

(3) The Coordinate Bench, while issuing notice of motion on 13.12.2023, granted interim bail to petitioner and the same reads as under:-

“Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail in case FIR No.514 dated 07.08.2022, under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar, Thanesar, District Kurukshetra.

Learned counsel for the petitioner has argued that the petitioner is innocent and has been falsely implicated in the present case. The name of the petitioner has surfaced in the disclosure statement of co-accused Dipanker Sethi, who was arrested at the spot and alleged recovery of 06 gms of heroin was effected from him. The petitioner was not present at the spot. The recovery effected from the co-accused is marginally higher than the prescribed small quantity. Other than the disclosure statement, there is no material on record to connect the petitioner with the commission of offence. The petitioner has been nominated as an accused in another case of similar nature in which also no recovery was effected from the petitioner and his name had surfaced in the disclosure statement. The petitioner has been granted the concession of interim anticipatory bail by this Court in the said case. The 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 the respondent-State and waives service. She prays for time to file reply/status report.

List on 15.02.2024.

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 furnishing personal bond and surety to the satisfaction of Arresting/Investigating Officer. The petitioner shall abide by the conditions specified in Section 438(2) Cr.P.C..”

- (4) Learned Counsel submits that in pursuance of the aforesaid order, petitioner has already joined the investigation and his custodial interrogation is not required.
- (5) Learned State Counsel, on instructions from SI Mohinder Singh, acknowledged that petitioner has joined investigation and as on today, his custodial interrogation is not required.
- (6) In view of above, interim order dated 13.12.2023 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) 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.
- (9) It is clarified that in case there is recurrence on the part of the petitioner, State would be at liberty to move an appropriate application for recalling of this order.
- (10) Disposed off accordingly.
- (11) Pending application(s), if any, shall also stand disposed off.

15th February, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes