

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No. M-33908 of 2016

Date of decision:- December 01, 2016

KAUSHIK KUMAR

.....PETITIONER..

VS.

STATE OF HARYANA

....RESPONDENT..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Subash Godara, Advocate,
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

JASPAL SINGH, J. (Oral)

By virtue of instant petition preferred under Section 438 of the Code of Criminal Procedure (for short "Cr.P.C."), Kaushik Kumar-petitioner has sought pre-arrest bail, feeling apprehension of his arrest, pertaining to FIR No.507, dated 07.09.2015, under Sections 420, 411, 417, 120-B IPC and Section 41/42 of the Indian Forest Act, 1927, Police Station Model Town Rewari.

2. At the time of issuance of notice of motion on 23.09.2016, following order was passed by this Court:-

"Inter-alia, it has been contended by learned counsel for the petitioner that petitioner is not named in the FIR. However, he has been nominated as an accused in the instant case on the basis of disclosure statement has been suffered by one Subash. The said Subash is also not named in the FIR. However, he was

made an accused on the basis of disclosure statement made by Sunil @ Sonu. So, there is no direct evidence against the petitioner that he is in any manner involved in the instant case. Moreover, the recovery of 'Sandalwood' has already been effected from the co-accused of the petitioner namely Sonu @ Kala, Sunil @ Sonu and Purshotam, who were arrested at the spot.

Notice of motion for 22.11.2016.

In the meanwhile, petitioner is directed to join the investigation. In the event of arrest, petitioner shall be released on interim bail at the satisfaction of the Arresting Officer/Investigating Officer subject to the conditions envisaged under Section 438(2) Cr.P.C.”

3. Though, it has been admitted by learned State counsel that the petitioner has joined the investigation in compliance of order dated 23.09.2016, yet, he did not cooperate with the investigating agency and has not disclosed the origin of 'Sandalwood' involved in this case.

4. However, during the course of arguments, it has been submitted by learned counsel for the petitioner that petitioner is not named in the FIR. He has been nominated as one of the accused on the basis of disclosure statement suffered by one Subhash, who was also arrested after a period of about two months of the registration of FIR. One Sunil @ Sonu was arrested by the police at the spot along with other co-accused and it was accused-Sunil @ Sonu, who had suffered disclosure statement that all the 'Sandalwood' belongs to one Anil Bishnoi. So, it is difficult to the petitioner to tell as to what was the source of the said 'Sandalwood'. Moreover, in the given circumstances, it also cannot be expected from the petitioner.

5. Taking into consideration the fact that the petitioner has already

joined the investigation as well as other narrated aspects, this Court is inclined to exercise the discretion envisaged under Section 438 Cr.P.C.

6. Keeping in view the aforesaid aspects of the case but without expressing any opinion on the merits, the petition is allowed and order dated 23.09.2016 is made absolute and shall enure during the pendency of trial but subject to the conditions provided under Section 438 (2) Cr.P.C.

December 01, 2016

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(JASPAL SINGH)

JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No