

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-40837 of 2016

DECIDED ON: December 08, 2016

ARSHDEEP SINGH @ ARSH

.....PETITIONER..

VERSUS

STATE OF PUNJAB

....RESPONDENT..

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Gaurav Sharma, Advocate for the petitioner.

Mr. RPS Sidhu, AAG, Punjab.

JASPAL SINGH, J (ORAL)

Through the instant petition preferred under Section 438 of the Code of Criminal Procedure, petitioner has sought pre-arrest bail, feeling apprehension of his arrest, in case bearing FIR No.10, dated 12.01.2016, under Section 392 IPC and Section 25 of the Arms Act, Police Station Nihal Singh Wala, District Moga.

2. The contention of learned counsel for the petitioner is that though the name of the petitioner figures in the FIR but Sarabjeet Singh, author of the FIR, subsequently, sworn an affidavit dated 13.10.2016, clearly stating that after the registration of FIR, he has inquired into about the persons involved in the occurrence and has come to know that Arshdeep Singh @ Arsh was not present at the time of occurrence and earlier he has been wrongly named in the statement made on 12.01.2016. He further clearly stated that he does not want to take any action against Arshdeep Singh @ Arsh.

3. Learned counsel for the petitioner further submits that similar statement was also made by him before DSP concerned during

investigation/inquiry. However, perusal of FIR transpires that Sarabjeet Singh (deponent) was also accompanied by one Dalip Kumar Chhabra, at the time, he made the statement to the police, which ultimately, formed the basis of FIR. Moreover, on conclusion of investigation, challan has already been presented against the co-accused of the petitioner and said Dalip Kumar Chhabra has been examined, who has supported the case of prosecution. Thus, in such circumstance much reliance cannot be placed upon the affidavit of Sarbjeet Singh, author of the FIR. Moreover, the petitioner is at large and proclamation proceedings have already been initiated by the jurisdictional Magistrate for securing his presence.

4. Taking into consideration the seriousness and gravity of offence and other aspects, this Court is of the considered view that no case is made out to exercise the discretion under Section 438 Cr.P.C.. Rather, this Court is of the considered view that the petitioner is required for custodial interrogation to unearth all the ramifications involved in this case.

5. Dismissed.

December 08, 2016
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether reportable: *Yes/No*