

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

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CRM-M-19933 of 2020 (O&M)

Date of decision:17.12.2020

Harpreet Singh

... Petitioner

versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.P.S.Binder, Advocate,
for the petitioner
Mr.R.S.Thind, DAG, Punjab

...

AMOL RATTAN SINGH, J. (Oral)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

By this petition, the petitioner seeks the concession of anticipatory bail, upon FIR no.119, dated 2.6.2020, having been registered at Police Station Samana, District Patiala, alleging therein the commission of offences punishable under Sections 392 and 397 of the IPC and Section 25 of the Arms Act, 1959.

On 22.7.2020, the petitioner was admitted to interim bail by this court with the following order passed:-

“Case is being taken up for hearing through Video Conferencing due to the outbreak of Covid-19pandemic.

Learned counsel contends that the petitioner has been

falsely implicated in the case solely on the basis of disclosure statement made by Gurpreet Singh, implicating Gurwinder Singh @ Guri, who during investigation made a disclosure statement, implicating Vikramjit Singh @ Vicky and said Vikramjit Singh @ Vicky during investigation made disclosure statement implicating one Sandeep Singh and the petitioner. Learned counsel contends that at this stage, the alleged disclosure statement cannot be relied upon as per law.

Learned counsel further contends that co-accused Sandeep Singh has already been granted ad interim pre-arrest bail vide order dated 07.07.2020 in CRM-M No.16294 of 2020.

Notice of motion.

Mr. Dhruv Dayal, Senior DAG, Punjab, who is present, accepts notice on behalf of the respondent and requests for time to file reply.

In the meantime, the petitioner shall join investigation within ten days from today and fully cooperate with the investigating authority. In the event of his arrest, the petitioner be released on ad-interim prearrest bail subject to his furnishing bail bonds to the satisfaction of the Arresting/ Investigating Officer. The petitioner shall also abide by the terms and conditions enumerated under Section 438(2) Cr.P.C., failing which the interim protection granted to him shall stand vacated.

To be heard along with CRM-M No.16294 of 2020 on

18.08.2020.”

Thereafter the matter kept getting adjourned with no reply having been filed by the State, though the petitioner is stated to have joined investigation as recorded in a somewhat detailed order dated 18.8.2020.

Thereafter a reply dated 7.9.2020 is on record, by way of an affidavit of the DSP, Circle Samana, stating therein that the petitioner was the person to whom (unlicensed) arms and ammunition were handed over by his co-accused Sandeep Singh, who, it is alleged, had obtained them from Panipat.

Learned counsel for the petitioner submits that even as per the allegation against the petitioner, he is only attributed the role of having received (unlicensed) arms and ammunition from Sandeep Singh, after which the petitioner returned those arms and ammunition at some point of time, with his co-accused Gurpreet Singh @ Gauri alleged to have fired at the complainant upon taking a lift in his car, and with the complainant having been shot in various parts of his body including his abdomen, and with the car taken away by the aforesaid Gurpreet Singh @ Gauri.

Hence, learned counsel submits that with the petitioner having joined investigation, custodial interrogation is not required.

He further submits that the role of the petitioner having been disclosed allegedly on a disclosure statement made by another co-accused, Gurwinder Singh (who is already in custody), such disclosure statement is not in any case admissible in evidence.

He therefore submits that the interim order passed in favour of the petitioner may be confirmed.

Mr.Thind, learned State counsel, however, refers to the affidavit and also submits that the petitioner though has undoubtedly joined investigation, however he is not cooperating, inasmuch as two weapons are still to be recovered from him.

Looking at the allegations against the petitioner as per the affidavit of the DSP, it would be obvious to me that this is not a case where the petitioner can be admitted to anticipatory bail at least, though learned counsel for the petitioner has also submitted that his co-accused, Sandeep Singh, from whom the arms and ammunition are allegedly stated to have been taken, has been eventually admitted to bail under the provisions of Section 439 of the Cr.P.C., by the Court of Sessions itself.

The allegation, even though on a disclosure statement of a co-accused (allegedly in custody), being that he received and kept and thereafter again handed over unlicensed arms and ammunition which were eventually used in the commission of the crime, and with the petitioner found to be in telephonic contact with aforesaid Sandeep Singh, though otherwise learned counsel for the petitioner would obviously be correct to the extent that a disclosure statement made by a co-accused who is in custody may not be admissible in evidence, however, looking at the gravity of the offence and the allegation against the petitioner, I see no reason for him to continue to be at least on anticipatory bail.

Consequently, without making any comments on the actual merits of the case, this petition is dismissed and the interim order passed on 22.7.2020 is hereby vacated.

However, naturally, in case of the arrest of the petitioner, if any

petition under the provisions of Section 439 of the Cr.P.C. is filed, obviously that would be dealt with wholly on its own merits by the competent court, expeditiously.

17.12.2020
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No