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

CRM-M-7922-2021

Date of decision : 15.11.2021

Nishant @ Mithu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rajesh Bansal, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.343 dated 01.08.2019 registered under Sections 148, 149, 307, 323, 427 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 (Sections 324, 325, 506 and 120-B of IPC have been added later on) at Police Station Thanesar Sadar, District Kurukshetra.

On 19.02.2021, a Coordinate Bench of this Court was pleased to stay the arrest of the petitioner and passed the following order:-

“The case has been taken up for hearing through video conferencing.

Learned counsel for the petitioner contends that the petitioner has not been named in the FIR. Petitioner was sought to be arrested on the basis of disclosure statement of the co-accused. Initially, the FIR was registered under

Section 148, 149, 323, 324, 325, 307, 506, 427, 120-B IPC against six persons.

During investigation, offence under Section 307 IPC was deleted by the DSP, Kurukshetra. The co-accused namely, Satbir, Suender, Amandeep, Amit and Krishan etc. were arrested and released on bail by the Judicial Magistrate, Kurukshetra. The police again added the offence under Section 307 IPC and under Section 25 of the Arms Act and sought permission of the Court by moving an application dated 24.11.2019 for arresting the accused persons. The application was allowed on 02.12.2019, and thereafter, the co-accused were arrested by the police. Co-accused Amandeep Singh filed CRM No.27538 of 2020 in the High Court for setting aside the order dated 02.12.2019 and the same was allowed vide order dated 15.09.2020, thereby setting aside the order dated 02.12.2019.

Notice of motion for 13.05.2021.

Till the next date of hearing, the arrest of the petitioner shall remain stayed.”

Thereafter, on 02.09.2021, the Coordinate Bench of this Court had granted the interim bail to the petitioner and directed him to join the investigation before the Investigating Officer. The relevant portion of order dated 02.09.2021 is reproduced hereasunder:-

“Notice of motion was issued on 19.02.2021 and arrest of the petitioner was stayed after noticing some incriminating facts.

For the reasons recorded in the aforesaid order, it would be just and appropriate to direct the petitioner to appear before the SHO/Investigating Officer to join investigation on 09.09.2021 at 11.00 A.M., and in the event of his arrest, he shall be enlarged on interim bail, subject to his furnishing requisite bail bonds/surety bonds to the

satisfaction of Arresting Officer. However, petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Nothing expressed hereinabove shall be construed to be an opinion on the merits of the case. The case shall be decided on merits on the adjourned date.

Adjourned to 15.11.2021.”

Learned counsel for the petitioner has submitted that in pursuance of the abovesaid order dated 02.09.2021, the petitioner has joined the investigation.

Learned counsel for the State, on instructions from SI Prem Chand, has submitted that the petitioner has joined the investigation and is not required for any further custodial interrogation.

Keeping in view the abovesaid facts and circumstances, moreso the facts which have been noticed in order dated 19.02.2021 passed by the Coordinate Bench of this Court and also the fact that the petitioner has joined the investigation and is not required for any further custodial interrogation, the interim order dated 02.09.2021 is ordered to be made absolute.

Accordingly, the present petition is allowed.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

15.11.2021

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No