

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

CRM-M-35908-2021

Date of Decision:07.12.2021

Maghar Singh

.....Petitioner

Vs.

State of Punjab

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Manish Kumar, Advocate,
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

AMOL RATTAN SINGH, J. (Oral)

Case heard *via* video conference.

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon FIR No.158, dated 17.07.2020, having been registered at Police Station Amargarh, District Sangrur, alleging therein the commission of offences punishable under the provisions of Sections 308/323/382/427/506/148/149 of the IPC (with Section 325/201 IPC added later).

On 29.09.2021, the following order had been passed by this court:-

“The reply filed on behalf of the respondent State, dated 22.09.2021, is ordered to be taken on record.

Learned counsel for the petitioner points out that though in the FIR there are 6-7 unknown persons stated to have been accompanying the three persons who were named therein, with an allegation also having been raised that it was those 3 who had snatched a mobile phone, a gold chain and a .32 bore revolver with 5 live cartridges in it, from the complainant, the reply of the ASP states that as per the supplementary statement made by the father of the complainant (also stated to be an injured), it was the petitioner who had snatched all three things.

He therefore submits that the petitioner has only been roped in subsequently, with infact Gurbaj Singh having been declared to be innocent by the police.

Learned State counsel on the other hand reiterates the contents of the affidavit and submits that with a supplementary

statement having been made subsequently and 6-7 known persons having been named initially itself in the FIR, with no recovery made from either of the persons named, the petitioners' custodial interrogation would very much be required.

Having considered the matter, looking at the fact that three specific persons were named as having snatched three specific items including a revolver, with a completely different story given subsequently, that those items were snatched by the petitioner as per a supplementary statement after about 9 months, without making any comment on the actual merits of the case, the petitioner is directed to join investigation within one week and if, upon him so joining, he is sought to be arrested, he shall be released on interim bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Duty Magistrate, till the next date of hearing.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilqa Magistrate immediately, who would then summon the arresting officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 12.11.2021.

A gazetted officer is directed to file an affidavit stating therein whether there are any other criminal cases registered against the petitioners or like nature or otherwise.”

Thereafter, a reply dated 17.11.2021 has been filed by the DSP, Sub Division Amargarh, which is ordered to be taken on record.

Though as per the said reply it is stated that the petitioners' custodial interrogation is required for him to disclose the names of unknown person, who are also alleged to have been involved in the occurrence, learned counsel for the petitioner again reiterates that out of the three persons named in the FIR, one having been found to be innocent by the police (Gurbaz Singh), and as regards another person, i.e. Beant Singh, a report under Section 173 Cr.P.C. already having been submitted, it is not understood as who the unknown person would be because the FIR itself names specifically three persons, and with the two unknown persons who were referred to obviously meaning Beant Singh and the petitioner, consequently no other unknown persons would be required to be named by the petitioner.

Even at this stage, without making any comment on the actual merits of the case, in view of the fact that the matter is subjudice before the trial court, keeping in view the entire circumstances as recorded in today's order and the one passed on 29.09.2021, the petition is allowed, with the order passed on that date made absolute on the same terms and conditions.

Naturally, if the complainant is aggrieved in any manner, of lack of proper investigation, he would be always at liberty to avail of his remedy as per law.

December 07, 2021

dharamvir

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : YES
Whether Reportable : NO