

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

211

CRM-M-1210-2022

Date of decision : 17.05.2022

GURSEWAK SINGH

..... Petitioner

VERSUS

STATE OF PUNJAB

..... Respondent

CORAM : HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present :- Mr. Ashish Aggarwal, Advocate
for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.152, dated 03.12.2021 under Sections 116 IPC and 25 of Arms Act registered at Police Station Division No.2, District Jalandhar.

Affidavit filed by learned State counsel is taken on record.

It has been submitted by the learned counsel for the petitioner that in pursuance of the order passed by this Court on 13.01.2022, the petitioner has joined the investigation and he has fully cooperated with the investigation process and has requested that the interim bail granted to the petitioner may be confirmed. He submitted that it is a case where the name of the petitioner was nominated on the basis of disclosure statement made by co-accused namely, Abhishek Chopra and although initially the name of the petitioner had occurred in the FIR but two persons namely Abhishek Chopra and Karan Rana were caught on the spot and some weapons were recovered from them and on the

disclosure statement of Abhishek Chopra the police is now seeking to apprehend the petitioner. He further submitted that the petitioner has clean antecedents and is not involved in any other case. Disclosure statement made by the co-accused is *per se* not admissible in evidence. He has further submitted that even otherwise it was a case of no injury and there is no allegation that any weapon was used by any of the accused persons. He further submitted that apart from the disclosure statement there is nothing on record to show that the petitioner was involved in the present offence.

On the other hand, learned State counsel has stated that it is correct that in pursuance of the order passed by this Court the petitioner has joined investigation. However, while referring to the affidavit filed by the State, he has submitted that the petitioner has not cooperated in the investigation process. On a query being asked from learned State counsel as to in what respect the petitioner has not cooperated in the investigation, he submitted that as per the disclosure statement of the co-accused he has sold one pistol to the petitioner for Rs.35,000/- and the same is yet to be recovered and the petitioner has not disclosed with regard to the same during investigation.

Replying to the arguments raised by learned State counsel, it was submitted by learned counsel for the petitioner that the case of the petitioner was that he was falsely implicated in the present case on the basis of disclosure statement and there was nothing on record to corroborate that the petitioner was connected in this case except the disclosure statement, which is not admissible. He further submitted that the petitioner does not have any kind of weapon and therefore, the objection raised by the learned counsel for the State that recovery of weapon is yet to be effected is misconceived.

I have heard the learned counsel for the parties.

As far as allegations in the present case against the petitioner is

concerned his name although was figuring in the FIR but as per the prosecution two persons namely, Abhishek Chopra and Karan Rana were arrested and some weapons were recovered from them. Thereafter, on the basis of disclosure statement made by aforesaid Abhishek Chopra, in which he stated that he had sold one pistol to the petitioner for Rs. 35,000/-. A perusal of the affidavit filed by the State would show that apart from the disclosure statement of the co-accused nothing has come on record to bring out any other sufficient material to connect the petitioner with the present offence. The fact that the petitioner has clean antecedents and he is not involved in any case has not been disputed by the learned Deputy Advocate General. Furthermore, it has neither come in the affidavit nor it is the case of the State counsel that in case the petitioner is granted anticipatory bail then he may abscond from justice or may influence any witness etc. The petitioner has specifically denied that he is not in possession of any weapon and he has been falsely implicated.

Therefore, this Court is of the considered opinion that the petitioner has already joined the investigation as per the learned counsel for the parties and the objection raised by the learned State counsel is not sustainable.

In view of the aforesaid position, the present petition is allowed. The order dated 13.01.2022 is hereby made absolute.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

17.05.2022
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Whether speaking/reasoned	Yes
Whether Reportable :	No