

201

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

CRM-M-2834-2022

Date of decision : 22.03.2022

Bagher Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Deepinder Brar, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.220 dated 16.12.2021 registered under Section 304 of the Indian Penal Code, 1860 at Police Station Kotwali Bathinda, District Bathinda.

On 25.01.2022, a Coordinate Bench of this Court was pleased to pass the following order:-

“Case heard via video conferencing.

By this petition, the petitioner seeks the concession of 'pre-arrest bail', upon FIR No. 220 having been registered at Police Station Kotwali, District Bathinda, on 16.12.2021, alleging therein the commission of an offence punishable under the provisions of Section 304 of the IPC.

Learned counsel for the petitioner submits that even as per the FIR itself, the petitioners' name has only been included upon his co-accused Amandeep Singh having allegedly disclosed his name in police custody; and with there otherwise being no other evidence whatsoever, including phone detail

records, to connect him to the commission of the offence, with him being a Constable in the Commando Wing of the Punjab Police.

Though this court would otherwise find it very difficult to believe that a Police Constable would be implicated without any reason, yet, learned counsel alleges that there is enmity between the SHO of the police station concerned and the petitioner, though in fact that is not even a plea taken in the petition and consequently that contention cannot be accepted at least at this stage by this court, unless it is actually put in black and white as a part of the pleadings, after which of course it would be considered on its own merits.

Be that as it may, since presently the only allegation against the petitioner is stated to be on a disclosure statement allegedly made in police custody, notice of motion is issued.

On the asking of the court, Mr. M.S. Nagra, A.A.G., Punjab, accepts notice on behalf of the respondent-State.

A copy of the petition be emailed to learned State counsel by counsel for the petitioner today itself.

Learned State counsel reiterates the contents of the FIR in terms of his instructions.

A gazetted officer is directed to file a detailed reply to each and every paragraph of the the petition.

In the meanwhile, in the aforesaid circumstances, again without making any comment on the actual merits of the case, the petitioner is directed to join investigation within one week from today and in case he is sought to be arrested, he would be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilqa Magistrate.

He shall also comply with the 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 him in investigation, in terms of the order of this court.

Adjourned to 22.03.2022.

January 25, 2022

Sd/- (AMOL RATTAN SINGH)

JUDGE ”

Learned counsel for the petitioner has submitted that in the present case, the involvement of the petitioner is debatable and in pursuance of the abovesaid order dated 25.01.2022, the petitioner has joined the investigation.

Learned counsel for the State, on instructions from ASI Gurpreet Singh, 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 abovesaid order dated 25.01.2022 and also the fact that the petitioner has joined the investigation and is not required for further custodial interrogation, the present petition is allowed and the interim order dated 25.01.2022 is ordered to be made absolute.

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.

22.03.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No