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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-4900-2022(O&M)
Date of Decision: 31.08.2022

Balwinder Singh Gagan

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Shakti Mehta, Advocate, for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

Mr. H.C. Arora, Advocate, for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.0002 dated 04.01.2022, under Sections 379-B, 458, 34 of IPC, registered at Police Station City Samana, District Patiala.

It has been submitted by the learned counsel for the petitioner that in pursuance of the orders passed by this Court on 07.02.2022 the petitioner has already joined investigation and has fully cooperated with the investigation process. He further submitted that the allegations against the petitioner were that some muffled face persons had come to the shop of the complainant and they had stolen gold items and two persons were arrested namely, Jaswinder Singh and Tarsem Singh and on the basis of the

disclosure statement made by co-accused Tarsem Singh, the name of the petitioner was nominated. He further submitted that in the disclosure statement which has been referred to in the reply filed by the State it has been stated that when the theft had taken place and the box has opened, then there were 6 rings in the box and all the 6 rings have already been recovered 3 each from the aforesaid two co-accused namely, Jaswinder Singh and Tarsem Singh. He further submitted that the petitioner has already joined investigation and his name has been nominated on the basis of the disclosure statement of co-accused, therefore, the interim order dated 07.02.2022 may be made absolute.

On the other hand, Mr. Amit Rana, learned Deputy Advocate General, Punjab on instructions from ASI Palwinder Singh has submitted that it is correct that the petitioner has already joined investigation. He has however submitted that 6 more rings are still to be recovered from the petitioner.

Mr. H.C. Arora, learned counsel for the complainant has opposed the grant of bail to the petitioner on the ground that the petitioner also went inside the shop and recovery of 6 rings has to be done and therefore, he is not entitled for the grant of anticipatory bail.

I have heard the learned counsel for the parties.

As per the prosecution story, the name of the petitioner was nominated on the basis of the disclosure statement made by the other two co-accused namely, Jaswinder Singh and Tarsem Singh who were arrested and as per the disclosure statement made by the co-accused Tarsem Singh, there were 6 more rings in the box which were the subject matter of the theft. The learned State counsel has specifically stated that 6 gold rings

were recovered 3 each from the co-accused namely, Jaswinder Singh and Tarsem Singh. Since it is disputed as to what was the total subject matter of the theft and it is yet to be seen at the time of investigation or at the time of trial as to whether the petitioner has participated in the offence or not, this Court is of the view that since the petitioner has already joined the investigation, he is entitled for the grant of anticipatory bail.

Consequently, the present petition is allowed and the order dated 07.02.2022 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.

31.08.2022

rakesh

**(JASGURPREET SINGH PURI)
JUDGE**

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No