

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-9460-2022 (O & M)

Date of decision: 30.08.2022

Mahesh Kumar alias Mahi

..... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Siddharth Gupta, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The petitioner seeks grant of anticipatory bail under Section 438 Cr.P.C. in a case bearing FIR No.0008 dated 13.01.2022 under Sections 307, 452, 336, 506, 323, 148, 149 IPC and Sections 25/27 of the Arms Act, 1959 registered with Police Station Civil Lines, Bathinda, District Bathinda.

On 07.03.2022, the following order was passed in this case:-

“Learned counsel has drawn the attention of the Court to Annexure P-2 to contend that on 06.12.2021, petitioner's brother held a press conference against SHO/Inspector Ravinder Singh @ Bhati and complainant (Assesar Paswan) highlighting their illegal activity in drug trafficking and in order to retaliate, the petitioner along with others including his brother was implicated in FIR No.0008 dated 13.01.2022, registered under Sections 307, 452, 336, 506, 323, 148 and 149 IPC and Sections 25 and 27 Arms Act, 1959 at Police Station Civil Lines, Bathinda, District Bathinda. He further submits that though the name of the petitioner's brother is mentioned in the FIR, who is stated to be present at the spot, but actually at the time of occurrence, he was in Bihar, who has been released on anticipatory bail by

the trial Court vide order dated 14.02.2022. According to him, in the alleged occurrence, no injury was suffered by anyone.

Notice of motion for 16.03.2022”.

Pursuant thereto on 16.03.2022, the following order was passed in this case:-

“Adjourned to 10.08.2022.

Meanwhile, the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C”.

The learned counsel for the petitioner submits that pursuant to the interim order dated 16.03.2022 passed by this Court, the petitioner has joined the investigation and as such is not required for custodial interrogation as it is a case of no injury on anyone.

The learned counsel for the State admits that the petitioner has joined investigation and no one has received any injury but submits that the recovery of a pistol is to be effected from the petitioner.

I have heard the learned counsel for both the parties.

Admittedly, it is a case where no injury has been caused to anyone with a firearm. Therefore, it would be a moot point during Trial as to whether the allegations in the FIR are correct or not. Therefore, it cannot be said that the custodial interrogation of the petitioner is required to get recovered the pistol allegedly used in the occurrence.

In view of the above, interim order dated 16.03.2022 is made absolute.

However, the petitioner shall keep on joining the investigation as and when required to do so and he shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

The petition stands disposed of.

August 30, 2022
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No