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

CRM-M-23261-2022

Date of decision: 26.05.2022

SATNAM SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

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

Mr. A.A. Pathak, Addl. A.G Punjab

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner, by filing the present petition, cast under Section 438 of Cr.P.C., seeks grant of anticipatory bail in case FIR No.38 of 06.05.2022, registered at Police Station Sadar Moga, District Moga, wherein offences constituted, under Sections 323, 324, 34 of IPC (Section 326 of IPC added later on vide DDR No.23 of 12.05.2022), are embodied.

2. The present bail petitioner along with his brother Joginder Singh, are alleged to make an assault, on the person of the victim-informant. The above assault was made through use of a dagger, upon, the person of the victim-informant.

3. Though, the learned counsel appearing for the petitioner submits, that the grievous injury, as became suffered by the victim, was a sequel, of the dagger becoming struck on the hip of the victim-informant, and, also thereupon he submits, that the petitioner, who rather inflicted simple injuries, on the person of the victim-informant, hence becomes penally liable only for the offence, under Section 324 of IPC, and, not for an

offence under Section 326 of IPC, offence whereof is allegedly committed by one Joginder Singh. However, the above made argument is rejected, as the principle of vicarious liability comprised in Section 34 of IPC, rather attracts qua both the accused, a co-equal penal liability, in respect of even the offence constituted under Section 326 of IPC, which is alleged to be committed not by the present bail petitioner, but by his brother one, Joginder Singh.

4. Be that as it may, since only for the purpose of ensuring the makings of recoveries of weapon(s) of offence, by the present bail petitioner, to the investigating officer concerned, rather the custodial interrogation of the present bail petitioner hence is imperative. However, when the learned State counsel on instructions given to him, by SI Balwinder Singh submits, that the present bail petitioner, has caused the effectuations of recoveries, of the incriminatory weapon(s) of offence, to the investigating officer concerned. Furthermore, since it is also submitted by the learned State counsel, that the investigation into the petition FIR, is almost complete, and, that very shortly a report under Section 173 of Cr.P.C., would be filed before the learned Magistrate concerned. Therefore, this Court does not deem it fit, and, appropriate to order for the custodial interrogation of the present bail petitioner. Moreover, when at this stage no evidence has been adduced by the prosecution, suggestive that in the event of the bail petitioner being enlarged on anticipatory bail, there is every likelihood of his fleeing from justice, and/or, tampering with prosecution evidence, thereupon it is not deemed fit to decline relief of pre-arrest bail to the petitioner.

5. Consequently, the petition is allowed, and, in the event of the

investigating officer concerned, proceeding to arrest the present bail petitioner, the investigating officer may not arrest the bail petitioner, however, subject to his furnishing personal, and, surety bonds in the sum of Rs.50,000/- each, to the satisfaction of the arresting officer, and, also subject to his rendering co-operation to him, in the investigations to be carried into the offences mentioned in the present FIR, and, with a further undertaking that he shall not tamper with prosecution evidence nor shall influence the prosecution witnesses.

6. Dasti copy.

26.05.2022

Ithlesh

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No

(SURESHWAR THAKUR)
JUDGE