IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-27145-2021 (O&M)
Date of decision: 04.02.2022

Gagandeep Tiwari **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. H. S. Deol, Advocate &
Mr. Vishal Lamba, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. H. P. S. Rakhra, Advocate
for the complainant.

(Through video conferencing)

ARVIND SINGH SANGWAN, J. *(Oral)*

The petitioner prays for grant of anticipatory bail in FIR No.46 dated 27.05.2021 under Sections 148, 302, 323, 324, 326 and 427 IPC read with Section 149 IPC and Sections 25 and 27 of Arms Act, registered at Police Station Sadar Rampura, District Bathinda.

The operative part of the order dated 15.07.2021, vide which the petitioner has been granted interim bail, is reproduced below:

> "Learned senior counsel for the petitioner inter alia contends that no such occurrence as alleged had ever taken place, whereas allegations levelled against the petitioner are totally concocted and there is not iota of truth therein. He further urges that petitioner was not named in the FIR, which was registered on 27.05.2021, whereas involvement of petitioner in the commission of alleged offence surfaced for the first time on 11.06.2021

MOHAMMAD WASEEM ANSARI
2022.02.04 13:00
I attest to the accuracy of this
order

in pursuant to supplementary statement (Annexure P/10) of injuredJaswinder Singh @ Jassa and that too stating the identity of petitioner as Lucky Tiwari son of Bhola Singh, whereas petitioner is known as Gagandeep Tiwari son of Suresh Kumar and as such identity of person to be arrayed as accused in terms of above said supplementary statement appears to be highly doubtful. He further urges that even otherwise in the above mentioned supplementary statement, injured-Jaswinder Singh @ Jassa has not attributed any specific injury to the petitioner and has made general allegation that while armed with Dang he (petitioner) participated in causing injury to them (injured persons). He further submits that injuredJaswinder Singh @ Jassa in his earlier statement under Section 161 Cr.P.C. recorded on 27.05.2021, did not utter even the name of petitioner nor any description in respect of petitioner was given therein. He further urges that even otherwise Harwinder Singh (since deceased) and injured witnesses namely Hardeep Singh, Buta Singh and Sukhwinder Singh have not uttered the name of petitioner amongst the assailants. He further urges that though petitioner has no nexus whatsoever with the alleged offence and he is ready to join investigation as and when called upon to do so by the Investigating Agency.

Notice of motion.

At the asking of Court, Mr. Mehardeep Singh, Addl. A.G., Punjab, accepts notice on behalf of the respondent-State and seeks time to file detailed reply. Complete copy of paper book be supplied to him during the course of day.

At this juncture, learned senior counsel for the petitioner submits that since detailed reply is yet to be filed at the instance of respondent-State, in the meanwhile some protection may be given to the petitioner.

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Adjourned to 02.08.2021."

Thereafter, learned State counsel has filed an affidavit of the DSP, Sub Division Phul, District Bathinda, in which it is stated that during investigation, it is found that one Lucky Tiwari son of Bhola Singh, who is referred to as the present petitioner, was also present armed with Dang, however, in the FIR as well as in supplementary statement of Jaswinder Singh, the petitioner is not named.

Learned counsel for the petitioner submits that the petitioner, in pursuance to the order dated 15.07.2021, has already appeared before the SHO/Investigating Officer and has joined the investigation.

Learned counsel for the State, assisted by learned counsel for the complainant, on instructions from the Investigating Officer, has not disputed the factual position, however, it is submitted that in some video footage, the petitioner was found to be a part of the same.

In view of the above and considering the fact that it will be a matter of trial to prove the identity of the petitioner, the petition is allowed and the interim bail granted to the petitioner, vide order dated 15.07.2021, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

04.02.2022 **(ARVIND SINGH SANGWAN)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*

MOHAMMAD WASEEM ANSARI
2022.02.04 13:00
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order