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

CRM-M-29870-2022

Date of decision : 14.07.2022

Lovepreet Singh @ Love

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. M.K. Bali, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.39 dated 09.05.2022 registered under Sections 379/411 of the Indian Penal Code, 1860 at Police Station Fattu DHINGA, District Kapurthala.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and he is student and had lost his father few years back. It is further submitted that even as per the FIR, there were five police officials, who had gone to the spot, after receiving secret information and in spite of them being there, it has been alleged that the petitioner had managed to run away and that too, not on the motorcycle which the petitioner and co-accused were stated to be

riding, but on foot. It is contended that the allegations levelled in the FIR are self-contradictory inasmuch as it has been stated that co-accused of the petitioner was apprehended at the spot whereas the present petitioner got down from the motorcycle and ran towards the fields and in the subsequent part of the FIR, it has been mentioned that the motorcycle had slipped. It is argued that there is no report of theft regarding the said motorcycle in the present case and the FIR had been registered by ASI Sukhchain Singh on the basis of the secret information. It is further contended that even as per the FIR, no one had identified the person who had allegedly ran away from the spot. It is further argued that the petitioner is not involved in any other case.

Notice of motion.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition for grant of anticipatory bail to the petitioner and has submitted that it is on the basis of the secret information that the police team had barricaded the place and had then seen the two persons riding on the motorcycle without a registration number and when they were signalled to stop, they suddenly tried to take a U-turn, on account of which, one boy got down from the motorcycle and ran away and the other was apprehended at the spot after the motorcycle slipped. The person who was apprehended was Gopal Singh. It is contended that the petitioner was specifically named in the secret information. It is further contended that

the owner of the motorcycle is one Baljit Kaur and her son had made a complaint two days prior to the registration of the FIR with respect to the theft of the motorcycle.

This Court has heard the learned counsel for the parties and has perused the paper book.

The petitioner is not involved in any other case. A perusal of the FIR would show that on the basis of secret information, a team of five police officials had barricaded the place and in spite of the same, it has been alleged in the FIR that one young boy had ran away from the spot. It is a matter of debate as to whether, in the presence of five police officials, who had reached the spot after receiving secret information and had barricaded the said place, the pillion rider could have escaped on foot and the said aspect would be finally adjudicated during the course of the trial. A perusal of the FIR would also show that no one had identified the present petitioner. The present petitioner is sought to be implicated solely on the basis of secret information. The motorcycle in question has already been recovered.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and in the event of arrest, the petitioner is granted the concession of anticipatory bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer and the conditions envisaged under Section 438(2) of Cr.P.C. However, the petitioner shall join the investigation as and when called upon to do so.

It is made clear, in case, the petitioner fails to join the investigation or does not cooperate with the investigation, then the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to the petitioner.

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.

14.07.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No