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

CRM-M-36037-2022

Date of decision : 26.08.2022

Khushkaran Singh @ Khushi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. L.S. Sidhu, Advocate for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.35 dated 17.02.2022 registered under Sections 324, 506, 34 of the Indian Penal Code, 1860 (vide DDR No.21 dated 01.03.2022 Sections 326 and 307 of IPC have been added later on and vide DDR No.29 dated 12.03.2022, Sections 148, 149, 120-B of IPC have been added later on and Section 34 of IPC has been dropped) at Police Station Lambi, District Sri Muktsar Sahib.

Learned counsel for the petitioner has submitted that in the present case, no person was named in the FIR and in the supplementary statement recorded after 23 days from the date of the alleged incident, total six persons were named, including the present petitioner and the five other persons named therein were Gurjeet Kaur, Ranjit Kaur, Paramjeet Singh, Sukhwinder Singh and Harmeet Singh @ Kala. It is further submitted that the said persons had applied for grant of concession of anticipatory bail and have

been granted the same by this Court vide order dated 06.07.2022 passed in CRM-M-16726-2022 and other connected matters and with respect to the same, has referred to the said order (Annexure P-7). It is contended that the case of the petitioner is on better footing than that of Harmeet Singh @ Kala and Sukhwinder Singh inasmuch as the said Harmeet Singh @ Kala and Sukhwinder Singh had been alleged to have given injuries to the complainant in the said supplementary statement, whereas the present petitioner was stated to have only caught hold of the complainant. It is further contended that the petitioner is in custody since 20.03.2022 and challan has already been presented qua the present petitioner and there are 28 prosecution witnesses, out of which, none have been examined and thus, the conclusion of trial is likely to take time.

On the other hand, learned State counsel has opposed the present petition for grant of concession of regular bail to the petitioner and has submitted that the petitioner is involved in three other cases and has submitted that the allegations levelled against the petitioner in the supplementary statement are that the petitioner had caught hold of the complainant.

Learned counsel for the petitioner, in rebuttal to the abovesaid arguments, has submitted that the petitioner has been granted bail in the said three cases and all the said cases are under the Excise Act and has relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the

petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

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

In the present case, the FIR had been registered against unknown persons and after a period of 23 days, the supplementary statement of the complainant was recorded on 12.03.2022, by virtue of which, six persons were named as accused persons, including the present petitioner. The other five persons were stated to be Gurjeet Kaur, Ranjit Kaur, Paramjeet Singh, Sukhwinder Singh and Harmeet Singh @ Kala and they have also been granted the concession of anticipatory bail by this Court vide order dated 06.07.2022 passed in CRM-M-16726-2022 and other connected matters. Relevant portion of the said order is reproduced hereinbelow:-

“This Court has heard the learned counsel for the parties and has perused the paperbook.

It is not in dispute that Gurjeet Kaur and Ranjit Kaur are the first cousins of the complainant Jaswinder Singh. Paramjeet Singh Brar is the husband of said Ranjit Kaur. The FIR has been registered on the statement of Jaswinder Singh and in the said FIR, he has not named any person as an accused. All the petitioners have been implicated after a delay of 23 days on the basis of the supplementary statement made by the complainant on 12.03.2022 (Annexure P-5).

Even a perusal of the said statement would show that it has been stated by the complainant therein that he had carried out the investigation at his own level and had found that all the petitioners had committed the said offences. In the said supplementary statement, the father's name of Harmeet Singh @ Kala and Sukhwinder Singh has also been mentioned. Learned counsel for the complainant has not been able to pin point as to on the basis of which information/investigation, the complainant was able to find out that it was the petitioners who were involved in the alleged incident. It is not in dispute that the brother of the complainant, namely Jagjit Singh, who has been stated to have given his statement on 17.02.2022 to the effect that he could identify the accused persons, has not got any further statement recorded to the effect that it was any of the present petitioners who had committed the said crime. The motive alleged in the supplementary statement dated 12.03.2022 was to the effect that Gurjeet Kaur had contested the elections of Sarpanch against the wife of the complainant. It is also not disputed that the said election had taken place in December 2018 and even the said Gurjeet Kaur had taken her examination on the date of the alleged incident and it is highly unlikely that a person would conspire to commit the alleged offence with the abovestated motive after a period of 4 years has elapsed, that too, on the date when she had to sit for her examination. The civil suit (Annexure P-6) has been filed by Gurjeet Kaur and Ranjit Kaur, alongwith their father, in which Jaswinder Singh and Jagjit Singh are defendants No. 2 and 7 respectively and the said suit has been filed in the year 2021 and is stated to be pending. Even a partition suit has been filed by the parties and thus, there is an ongoing civil dispute between Gurjeet Kaur, Ranjit Kaur and Paramjeet Singh Brar on one side and the complainant and his family members on the other side.

The argument on behalf of the petitioners to the effect that they have been falsely implicated, without there being any material to connect them with the alleged occurrence only in order to stop them from claiming their legal rights in the said property, cannot be outrightly rejected. A perusal of the MLR would show that two injuries have been caused to the complainant which are both on his ankle and thus, the question as to whether the offence under Section 307 IPC is made out in the present case or not would also be a matter of debate. The allegation in the supplementary statement of the complainant recorded on 12.03.2022 i.e. after a delay of 23 days to the effect that Harmeet Singh was armed with an iron rod and that he had caused injuries to the complainant with the said iron rod is also contrary to the medical evidence inasmuch as, the medical evidence shows that both the injuries suffered by the complainant have been caused by a sharp weapon on his ankle. The petitioners have already been granted interim bail by this Court and the petitioners have been stated to have joined the investigation and nothing has been stated so as to show that they have misused the concession of the said interim bail or have threatened the complainant party.

Keeping in view the abovesaid facts and circumstances, all the three petitions are allowed and all the five petitioners are granted anticipatory bail and the interim orders dated 25.04.2022, 02.06.2022 and 20.06.2022 are ordered to be made absolute.

However, 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.”

The arguments raised in the aforesaid case would also be

available to the present petitioner and even as per the said supplementary statement, no injury has been attributed to the petitioner and the only role attributed to him is of catching hold of the complainant. The petitioner is in custody since 20.03.2022 and challan qua the petitioner has already been presented and there are 28 prosecution witnesses, out of which, none have been examined as yet and thus, the conclusion of trial is likely to take time.

Keeping in view the abovesaid facts and circumstances as well as law laid down in ***Maulana Mohd. Amir Rashadi 's*** case (Supra), the present petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of 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.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

26.08.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**