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

CRM-M-37530-2022

Date of decision : 21.11.2022

Kundan Singh @ Gobind Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Kaushal Chahal, Advocate for
Mr. P.S. Sekhon, Advocate for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.76 dated 06.08.2022 registered under Sections 452, 325, 323, 341, 336, 427, 148, 149 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 at Police Station Sadar Moga, District Moga.

On 29.08.2022, a Coordinate Bench of this Court was pleased to pass the following order:-

“Prayer in this petition, filed under Section 438 of the Code of Criminal Procedure, 1973, is for grant of anticipatory bail to the petitioner, who has been booked for having committed the offences punishable under Sections 452, 325, 323, 341, 336, 427, 148 and 149 IPC and Section

25 of the Arms Act, 1959, in a case arising out of FIR No. 76, dated 06.08.2022, registered at Police Station Sadar, Moga, District Moga.

Learned counsel for the petitioner contends that except for Section 452 IPC, all other Sections are bailable and said Section has been added only to aggravate the nature of offence. Learned counsel further submits that one sided investigation is being conducted by the police because Chet Singh, father of co-accused Akashdeep Singh, has suffered injury in the present incident and though his statement was recorded but the police has not taken any action on the basis of statement of said Chet Singh. Learned counsel for the petitioner refers to the police proceedings recorded in the FIR and argues that admittedly Chet Singh sustained injuries and admitted in the hospital and Ruqa No. 2445, dated 05.08.2022, in this regard was sent to police.

Notice of motion.

On the asking of the Court, Mr. J.S. Arora, Deputy Advocate General, Punjab, who is present in the Court, accepts notice on behalf of the respondent-State. Complete copy of the paper book has been supplied to him in advance.

On instructions from ASI Sukhmandar Singh, learned State counsel opposes the prayer of anticipatory bail primarily on the ground that petitioner is involved in eight other cases of different nature. In the present case, Section 452 IPC is non-bailable, therefore, the said concession should not be extended to the petitioner. However, learned State counsel submits that on the statement of Chet Singh, DDR has also been registered under Section 323 IPC, which is pending investigation.

Faced with this, learned counsel for the petitioner refers to the order passed by a co-ordinate Bench of this

Court in the case of Mewa Singh v. State of Punjab (CRM-M-12051-2020, decided on 17.06.2020), wherein concession of anticipatory bail was granted despite registration of other serious offences against the petitioner therein. Learned counsel also placed reliance on orders passed in the cases of Harinder Singh @ Sonu Sandhu v. State of Punjab (CRM-M-11414-2021, decided on 19.08.2021) and Sumit @ Shami v. State of Haryana (CRM-M-47486-2021, decided on 02.05.2022).

Having heard learned counsel for the parties, I am of the considered view that it is a case where applicability of Section 452 IPC would be decided at the final stage and, thus, concession of anticipatory bail can be extended to the petitioner at this stage.

Adjourned to 21.11.2022.

In the meanwhile, petitioner is directed to join the investigation as and when required to do so by the Investigating Agency. In the event of his arrest, petitioner shall be released on ad-interim bail, subject to his furnishing bail bonds to the satisfaction of the Arresting Officer. Petitioner shall also abide by all the conditions laid down under Section 438(2), Cr.PC.

Sd/-(SANJAY VASHISTH)

JUDGE

August 29, 2022”

Learned counsel for the petitioner has submitted that in pursuance of the abovesaid order dated 29.08.2022, the petitioner has joined the investigation.

Learned counsel for the State, on instructions from ASI Jaswinder Singh, has submitted that the petitioner has joined the investigation and is not required for any further custodial interrogation.

Keeping in view the abovesaid facts and circumstances moreso, the facts which have been noticed in abovesaid order dated 29.08.2022 and also the fact that the petitioner has joined the investigation and is not required for further custodial interrogation, the present petition is allowed and the interim order dated 29.08.2022 is 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.

21.11.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No