

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

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CRM-M-39206-2022

Date of decision : 29.09.2022

Jasdeep Singh

Petitioner

V/S

State of Punjab

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Harnoor Singh Sidhu, Advocate
for the petitioner.

Mr. Gurpreet Singh Sandhu, D.A.G., Punjab
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.91 dated 31.07.2022 registered under Sections 419, 420, 465, 468, 471, 170, 383, 389 and 120-B of the Indian Penal Code, 1860 at Police Station Sadar Sangrur, District Sangrur.

As per the prosecution version, on 31.07.2022 police party headed by ASI Jarnail Singh was on patrolling duty. At about 10:00 a.m. they received secret information that Mani Singh is coming from Dirba to Sangrur in car bearing registration No.PB-08EC-0033 with a forged number plate on his car. He along with Sonia Sharma and some other persons used to threaten innocent persons and extort money from them posing themselves as senior police officers. On which the police conducted nakabandi and apprehended accused Mani Singh. On search 02 forged number plates, a police uniform and one fake police identity card was recovered from the car. During investigation, accused Mani

Singh disclosed the name of other co-accused including the name of the petitioner.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case on the basis of disclosure statement made by co-accused Mani Singh. The petitioner and co-accused Mani Singh had a money dispute and due to this reasons the petitioner is being dragged into this case by the Mani Singh. The petitioner was not apprehended on the spot and nothing was recovered from him. Petitioner has been arrayed as accused on the basis of disclosure statement of his co-accused, which is a very weak type of evidence. The petitioner is already ready and willing to join the investigation.

On the other hand, learned State counsel opposes the present petition in terms of status report filed by way of an affidavit dated 14.09.2022. He submits that during interrogation accused Mani Singh disclosed that Jasdeep Singh (the petitioner) has demanded Rs.5,00,000/- from him for getting him appointed in Punjab Police and Rs.1,50,000/- had already been given to the petitioner. The petitioner has given him Punjab Police uniform and one ID card and stated that he will be sent to training soon. Custodial interrogation of the petitioner is required for proper/thorough investigation of the case and also for effecting recovery of Rs.1,50,000/- given to the petitioner by co-accused Mani Singh.

I have heard learned counsel for the parties and perused the record.

It is settled proposition of law that power exercisable under

Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Hon'ble Supreme Court in

State Vs. Anil Sharma : (1997) 7 SCC 187 held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

Further, it is well settled that Article 21 of the Constitution is not an absolute right and is subject to the procedure established by law. The facts and circumstances involved in the present case, point towards the complicity of the petitioner and thus custodial interrogation of the petitioner is necessary and would not amount to the violation of petitioner's right under Article 21 of the Constitution.

Keeping in view the above facts as well as nature of the offence, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

29.09.2022

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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No