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

CRM-M-2161-2023

Date of Decision: 12.04.2023

Narinder Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Mandeep Singh, Advocate
for the petitioner.

Mr. Subhash Godara, Addl, AG, Punjab.

HARSH BUNGER, J. (Oral)

Prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.167, dated 10.10.2022, registered under Sections 304 and 34 of the Indian Penal Code, 1860, at Police Station Sadar Malout, Tehsil Malout, District Sri Muktsar Sahib, Punjab (Annexure P-1).

On 15.02.2023 the following order was passed by this Court :-

"CRM-6710-2023

The present application is filed for placing on record the copy of order dated 31.01.2023 vide which co-accused has been granted the concession of regular bail by learned Session Judge, Sri Muktsar Sahib (Annexure P-3).

For the reasons mentioned in the application, the same is allowed and the copy of order dated 31.01.2023 is taken on record, subject to all just exceptions.

CRM-M-2161-2023

Prayer in the present petition, filed under Section 438 of the Code of Criminal Procedure, is for grant of anticipatory bail to the petitioner in case FIR No.167 dated 10.10.2022 registered

under Sections 304 and 34 of Indian Penal Code, registered at Police Station Sadar Malout, Tehsil Malout, District Sri Muktsar Sahib, Punjab (Annexure P-1).

The present case has been registered at the instance of complainant Darshan Singh with the allegations that he has three children. His son Buta Singh aged about 25 years. Marriage of Buta Singh was performed with Sharanjeet Kaur on 04.10.2022. After the marriage, his entire family went to Joar Mela (Fair) of Baba Budha Sahib. On 09.10.2022 at about 2.00/2.30 p.m. they returned from the fair. His son was sleeping in the house. At about 5.00/5.30 p.m. applicant Subhash and Jaswinder Singh came in their house and they asked his son Buta Singh to accompany them. Applicant Subhash and Jaswinder Singh took away his son Buta Singh on their motorcycle. When his son Buta Singh did not return, he started searching him. Buta Singh was found lying near Dharamshala, village Jhorar. Applicant Subhash and Jaswinder Singh were putting water in his mouth and on his head. He along with Ravinder Singh after arranging the vehicle took his son to Civil Hospital, where due to his condition he was referred by the Doctor to Faridkot Medical College but due to the condition of his son Buta Singh, they admitted him in Private Hospital Mata Santoshi Hospital, Gidderbaha. Thereafter, he was referred by the Doctors due to his condition to Adesh Hospital, Bathinda, where his son Buta Singh was declared dead. He is of the belief that applicant Subhash and Jaswinder Singh gave overdose of intoxicant to his son, as they were earlier used to give intoxicant to his son for which he stopped them. On the statement of complainant, present case bearing FIR no.167 dated 10.10.2022 under Section 304 read with Section 34 IPC was registered.

Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case on the disclosure statement of the main accused- Subhash that he had purchased the drug from the present petitioner, although, there is no evidence to substantiate the allegations. It is further submitted that even the complainant in the FIR has stated that main accused- Subhash and Jaswinder made his son Buta Singh agreed to go with them and when his son did not return home for a long time, they searched him at their own and found Buta Singh was lying on the road near the Dharamshala of village Jhorar and main accused-Subhash and Jaswinder were pouring water on his mouth and head. It is further submitted that the petitioner was not present at the alleged place of occurrence. Learned counsel submits that not even a single FIR is lodged against the present petitioner under NDPS Act. It is further submitted that the bail application moved by the petitioner under Section 438 of the Code of Criminal Procedure, for grant of anticipatory bail has wrongly been dismissed by learned Sessions Judge, Sri Muktsar Sahib vide its order dated 22.12.2022. It is submitted that the co-accused in

this case namely Subhash has already been granted regular bail vide order dated 31.01.2023 (Annexure P-3) passed by learned Sessions Judge, Sri Muktsar Sahib. It is also submitted that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency or as directed by this Court or trial Court.

Learned counsel appearing on behalf of the State opposes the petitioner's plea for bail on the ground of seriousness of the offence and submits that the petitioner does not deserve the concession of anticipatory bail, however, it is not disputed by learned State counsel that the petitioner is not involved in any NDPS case, nor was he named in the present FIR. It is also not disputed that co-accused (Subhash) has been granted regular bail.

List on 12.04.2023.

In the meanwhile, in the event of arrest of the petitioner, he shall be released on ad interim bail to the satisfaction of the Investigating/ Arresting Officer. However, he shall join the investigation as and when directed by the Investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C."

Learned counsel for the petitioner submits that pursuant to the aforesaid order, the petitioner has joined the investigation.

Learned State counsel on instructions from SI Prem Chand has not disputed the aforesaid fact of joining of investigation by the petitioner and submits that his custodial interrogation is not required at this stage.

Heard learned counsel for the parties.

Since the petitioner has joined the investigation and his custodial interrogation is not required at this stage, the present petition is allowed and the ad-interim order dated 15.02.2023 passed by this Court is made absolute.

However, the petitioner shall continue to join the investigation as and when required to do so and abide by all the conditions laid down under Section 438(2) Cr.P.C.

It is made clear that if the petitioner fails to comply with any of the bail conditions laid down under Section 438(2) Cr.P.C, the State would

be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioner.

Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for anticipatory bail at this stage.

The petition is accordingly disposed of.

12.04.2023
Himani

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No