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

CRM-M-5910-2023
Date of Decision: 23.03.2023

Balwinder Masih

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Anosh Samson, Advocate for
Mr. Vinay Kumar, Advocate for
for the petitioner.

Mr. Harjinder S. Sidhu, AAG, 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.75 dated 04.08.2022 (Annexure P-1), registered under Section 61/1 of the Punjab Excise Act, at Police Station Fatehgarh Churrian, District Batala.

Reply dated 23.03.2023 by way of an affidavit of Sarvanjit Singh, PPS, Deputy Superintendent of Police, Sub Division Fatehgarh Churrian, Police District Batala, on behalf of respondent/State of Punjab is filed by the learned State counsel in Court today and the same is taken on record, subject to all just exceptions.

On 06.02.2023 the following order was passed by this Court :-

“Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.75

dated 04.08.2022 (Annexure P-1), under Sections 61/1 of the Punjab Excise Act, registered at Police Station Fatehgarh Churian, District Batala.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case on the basis of disclosure statement of co-accused Dilbag Singh, who is the main accused and from whom recovery of nine bottles of illicit liquor was effected in the instant case. It is further submitted that the petitioner was in fact not present at the spot. Learned counsel further states that the petitioner was earlier granted the concession of interim bail by the Court of Additional Sessions Judge, Gurdaspur, vide order dated 29.12.2022 (Annexure P-2), however due to non-representation on behalf of the petitioner on 10.01.2023, the interim bail granted to the petitioner was declined by the Court of Sessions Judge, Gurdaspur, vide order dated 10.01.2023 (Annexure P-3). Learned counsel for the petitioner submits that the petitioner is ready and willing to join the investigation as and when required by the Investigating Agency or as directed by this Court/trial Court.

Notice of motion.

At the asking of Court, Mr. Subhash Godara, Additional Advocate General, Punjab, who is present in Court, accepts notice on behalf of the respondent/State. He prays for an accommodation to seek instructions in the matter.

List on 23.03.2023.

In the meanwhile, in the event of arrest of 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 is directed to supply complete copy of paper book to learned State counsel during the course of the day. ”

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

Learned State counsel on instructions from ASI Rajbir Singh 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 06.02.2023 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.

23.03.2023

Himani

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No