

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

105

CRM-M-7273-2023

Date of decision : 10.02.2023

Jagroop Singh

....Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Ramandeep Singh Gill, Advocate with
Mr. Harmanjeet Singh Dhaliwal, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, Senior D.A.G., Punjab.

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.31 dated 17.04.2021 registered under Sections 392, 395, 384, 465, 467, 468, 471, 511 and 120-B of the Indian Penal Code, 1860; Sections 21, 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 25 of the Arms Act, 1959 (to which Section 30 of the Arms Act was added later on) at Police Station Sadar Kurali, District S.A.S. Nagar.

Brief facts of the case are that the police party headed by ASI Talwinder Singh on the basis of secret information received on 17.04.2021, apprehended co-accused Karanveer Singh @ Kanna along with one Gurjashanpreet Singh on 28.04.2021 while they were going from Chandigarh to Tarn Tarn. On search, one .32 bore pistol along with 12 live cartridges and 1 kg and 260 grams of heroin were recovered from the car of accused-Karanveer Singh @ Kanna. During

investigation it was found that the petitioner is the license holder of the alleged pistol recovered from accused-Karanveer Singh @ Kanna.

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. Actually, Gurjashanpreet Singh is the cousin brother of the petitioner and unfortunately on the day before the incident, the petitioner had left his pistol in the car which was borrowed by his cousin from one of his friend. The petitioner has nothing to do with co-accused-Karanveer Singh @ Kanna. After a delay of almost 01 year and 09 months, supplementary challan has been presented before the trial Court and the petitioner has been nominated as an accused in the present case. There is no specific allegations against the petitioner except recovery of his valid licensed pistol from co-accused. Nothing is to be recovered from the petitioner and his custodial interrogation is not require in the case. The petitioner is also ready and willing to join investigation. Therefore, the petitioner may be granted anticipatory bail.

Notice of motion.

On the asking of the Court, Mr. Joginder Pal Ratra, Senior D.A.G., Punjab, who is present in the Court, accepts notice on behalf of the respondent-State. Learned State counsel has vehemently opposed the present petition and submits that the pistol of the petitioner has been recovered from the possession of co-accused Karanvir Singh @ Kana who is a known gangster. For thorough investigation of the case, the custodial interrogation of the petitioner is required.

Having heard learned counsel for the parties, I am of the view that the allegations against the petitioner are serious in nature. As

per prosecution, a pistol along with 12 live cartridges and 1 kg and 260 grams of heroin were recovered from co-accused Karanvir Singh @ Kanna who is a member of group of known gangsters involved in the offences of murder, dacoity, extortion and drug smuggling. The petitioner is the license holder of the pistol recovered from the co-accused. Furthermore, investigation is still going on in the present case and for thorough investigation of the case, custodial interrogation of the petitioner is necessary. 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 ensconded 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.”

Keeping in view the aforementioned facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

10.02.2023

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(ASHOK KUMAR VERMA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No