

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-7755-2023

Date of decision : 23.03.2023

Akash Singh @ Joga @ Akashdeep Singh

Petitioner

V/S

State of Punjab

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. N.P.S. Hira, Advocate for the petitioner.

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.169 dated 31.10.2022 registered under Sections 379, 411 and 414 of the Indian Penal Code, 1860 at Police Station Jhabal, District Tarn Taran.

The above-said FIR was registered on the basis of secret information received against accused Ramandeep Singh @ Raman and Chamkaur Singh to the effect that both of them are habitual of stealing motorcycles from crowded places and have formed a gang for further selling the motorcycles. On the basis of said information, both the accused were apprehended. On search 05 motorcycles were recovered from accused-Ramandeep Singh @ Raman and 03 motorcycles were recovered from accused-Chamkaur Singh. During interrogation, accused-Ramandeep Singh @ Raman disclosed the name of the petitioner as one

of the member of the gang.

Learned counsel for the petitioner submits that the petitioner was not named in the FIR and has been falsely implicated in the present case on the basis of disclosure statement made by co-accused. The petitioner has nothing to do with the co-accused Ramandeep Singh @ Raman and Chamkaur Singh. Nothing is to be recovered from the petitioner and his custodial interrogation is not required in the case. The petitioner is already ready and willing to join the investigation.

Notice of motion.

On the asking of the Court, Mr. Joginder Pal Ratra, Senior D.A.G., Punjab, who is present in the Court, has accepted notice on behalf of the respondent-State and on instructions, submits that the petitioner was specifically named by co-accused Ramandeep Singh @ Raman in his disclosure statement as one of the gang member. 03 stolen motorcycles have also been recovered from the petitioner. For thorough investigation of the case, custodial interrogation of the petitioner is necessary.

Having heard learned counsel for the parties, I am of the view that the allegations against the petitioner are serious in nature. Moreover, investigation is still going on in the present case. For thorough investigation of the case and to unearth the modus operandi of the gang, 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.

23.03.2023
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No