

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

105

CRM-M-10304-2023

Date of decision : 27.02.2023

Manoj Sharma

Petitioner

V/S

State of Punjab

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Tejinder Singh, Advocate with
Mr. Shivam Gautam, 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.144 dated 06.11.2022 registered under Sections 302 and 34 of the Indian Penal Code, 1860 at Police Station Division 1, Jalandhar.

The above-said FIR was registered on the statement made by ASI Randhir Singh who stated that on 05.11.2022 he along with ASI Sanjeev Kumar were on duty at Verka Milk Plant Chowk in connection with visit of Prime Minister of India to Dera Beas. At about 05:00 p.m. one goods carrier Balero bearing Registration No.HP-86-4393 came at a very high speed and when ASI Sanjeev Kumar gave a signal to stop such vehicle, then the person sitting on the conductor seat insisted the driver to hit the vehicle against ASI Sanjeev Kumar. Thereafter, the driver hit his vehicle against ASI Sanjeev Kumar who got injured. He was taken to the hospital but he succumbed to his injuries.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. The allegations levelled in the FIR are totally false and concocted. Neither the petitioner had any ill-will against the deceased nor had any motive to commit such a heinous crime. The petitioner is not driving the vehicle he was sitting on the conductor seat. No offence under Section 302 of the IPC is made out against the petitioner. The only offence made out is of rash and negligent driving. 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. Jaspal Singh Guru, Asstt. A.G., Punjab, who is present in the Court, has accepted notice on behalf of the respondent-State and opposed the present petition on the grounds that the petitioner who was sitting on the conductor seat insisted the driver to hit the vehicle against ASI Sanjeev Kumar. For thorough investigation of the case, 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. Furthermore, investigation is still going on in the present case. 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 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.”

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.

27.02.2023

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(ASHOK KUMAR VERMA)
JUDGE

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