

202

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14925-2022
Date of decision: 06.10.2023

AVTAR SINGH MARATTA

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Gaurav Mohunta, Advocate and
Mr. Satyendra Kumar, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.735 dated 23.11.2021, under Sections 420, 467, 468, 471, 120-B of the IPC and Section 30 of the Arms Act, registered at Police Station Civil Lines Karnal, District Karnal, Haryana.
2. The aforesaid FIR which has been attached along with the present petition as Annexure P-1, is reproduced as under:-

"The contents of the application are as follows: Security Branch, Distt. Karnal. Sir, It has come to notice from secret informers that Pritpal Singh Randhawa s/o Amrik Singh r/o Khanrajada Distt. Tarn Taran(Punjab) at present tenant in Sector 13, Karnal, has got procured a fake arms license in

the year 2019, with connivance of some other person, and on basis of that he has purchased a .32 bore revolver from Maratha gun House, at Amritsar. Therefore a detailed enquiry is recommended to be conducted into this. Report is hereby presented.

Sd/-Sultan Singh SO Incharge, Security Branch, Karnal."

3. As per the said FIR, there was a secret information with the police that one co-accused, namely, Pritpal Singh Randhawa, who is resident of Khanrajada District Tarn Taran, at present tenant of Sector-13, Karnal, procured a fake arms license in the year 2019 in connivance with some other person and on the basis of which, he has purchased .32 bore revolver from Marhatta Gun House and therefore detailed inquiry is recommended to be conducted.

4. Learned counsel for the petitioner submitted that it is a case where the petitioner has been falsely implicated in the present case since the petitioner had no role to play as he was only an arms dealer and during investigation, it was found that there were two persons, namely, Pritpal Singh Randhawa and Sarabjit Singh, who were having arms license issued from the office of the District Magistrate, Tarn Taran and Karnal, respectively, were found to be fake and they had purchased .32 bore revolver from the present petitioner, who is the owner of aforesaid Gun House. The aforesaid two persons were apprehended by the police at Karnal and from them aforesaid arm was recovered and an FIR was lodged at Karnal. He further submitted that the licenses of the aforesaid two persons which were issued by the office of District Magistrate, Tarn Taran and Karnal were already in existence and were uploaded on the portal maintained by the Government of India and therefore so far as the present

petitioner is concerned, he had no role to play in the present offence. He further submitted that the aforesaid two co-accused, namely, Pritpal Singh Randhawa and Sarabjit Singh were admitted to regular bail by the learned trial Court at Karnal. However, thereafter the bail granted to Sarabjit Singh was cancelled because he did not appear in the Court. He also submitted that this Court during the pendency of the present petition had stayed the arrest of the petitioner vide order dated 12.07.2022 and during the pendency of the present petition as well, the petitioner has since been arrested in another case on 19.07.2022 in FIR No.92 dated 16.05.2022 under Sections 21, 23, 29, 59 of the NDPS Act; Section 25 of the Arms Act; Sections 4 and 5 of the Explosive Substances Act, 1908; Sections 13, 16, 20 of the Unlawful Activities (Prevention) Act, 1967 and Sections 7 and 13(1)(A)(2) of the Prevention of Corruption Act, 1988 as amended by PC (Amendment) Act, 2018, registered at Police Station STF Mohali, District SAS Nagar, Mohali and now the petitioner is in custody in the aforesaid FIR.

5. On the other hand, Ms. Harpreet Kaur, AAG, Haryana submitted that it is a case where a gang operates pertaining to issuance of false licenses and it is being done in connivance with the officials of the office of the District Magistrates. She further submitted that the present FIR was registered at Karnal on the basis of information and it was found that both the licenses of both the co-accused, namely, Pritpal Singh Randhawa and Sarabjit Singh, which are also shown to be uploaded on the website were false and fabricated and so far the investigation conducted, it has also been found that the petitioner along with the officials of the office of District Magistrate, Tarn Taran was involved in

fabrication of the licenses and the same has also been substantiated by a separate affidavit filed by the Inspector General of Police, Border Range, Amritsar dated 16.01.2023. She further submitted that the petitioner is already in custody in aforesaid FIR No.92 dated 16.05.2022 and therefore the present petition is not even maintainable. She while referring to the affidavit filed by the Superintendent of Police, Karnal dated 27.07.2022 submitted that the petitioner is not only involved in aforesaid FIR No.92 dated 16.05.2022 but is also involved in one more FIR No.123 dated 16.06.2017, under Sections 465, 467, 468, 471 of the IPC and Section 25 of the Arms Act, registered at Police Station Phase-I, Mohali, Punjab, on the basis of similar allegations. She further submitted that the petitioner is a habitual offender and his custodial interrogation is required for the purpose of elicitation of truth and for qualitative investigation because there is a big chain which is being operated whereby false arms licenses are being fabricated and on the basis of false and fabricated arms licenses, weapons are being sold and has therefore prayed for dismissal of the present petition.

6. At this stage, learned counsel for the petitioner submitted that so far as aforesaid FIR No.92 dated 16.05.2022 is concerned, now the offences under the Unlawful Activities (Prevention) Act, 1967 and the Explosive Substances Act, 1908 have since been deleted. He also submitted that in the second FIR i.e. FIR No.123 dated 16.06.2017, the petitioner was granted interim anticipatory bail by this Court but later on the petition became infructuous on the basis of statement made by learned counsel for the petitioner

that petitioner has already been arrested. He further submitted that thereafter the petitioner was granted regular bail by the learned trial Court.

7. I have heard the learned counsel for the parties.

8. The precise allegations in the present case are that the police had information with regard to co-accused, namely, Pritpal Singh Randhawa, who has purchased weapon of .32 bore from the shop of the petitioner, namely, Marhatta Gun House situated at Amritsar on the basis of fake and fabricated arms license. Thereafter, the investigation process was carried on by the Karnal police. During the course of proceedings, this Court had put a specific query to the State on earlier dates as to how the licenses in the name of aforesaid co-accused, namely, Pritpal Singh Randhawa and Sarabjit Singh were being depicted on the portal of the Government of India whereas on the other hand, there was an allegation that the said licenses were fake and fabricated, to which the State did not file a proper reply and rather the reply which was filed was vague and therefore this Court on 12.07.2022 stayed the arrest of the petitioner. Thereafter on 24.08.2022, this Court directed the Inspector General of Police, Amritsar, to look into the matter himself and file his own affidavit before this Court since one of the license was issued by the office of District Magistrate, Tarn Taran, which falls in the State of Punjab.

9. Consequent upon the same, the Inspector General of Police, Border Range, Amritsar filed an affidavit before this Court dated 16.01.2023 in which it has been stated that on inquiry, it has been found that both the licenses of both the co-accused, namely, Pritpal Singh Randhawa and Sarabjit Singh are fake and the office of District Magistrate, Tarn Taran has not issued any license to

aforesaid Pritpal Singh Randhawa. So far as the uploading of the so called license in the name of co-accused, namely, Pritpal Singh Randhawa is concerned, it was stated in the affidavit that it was found that ID of some other person was used and the original person to whom the licence was issued was some other person and it was changed in the name of co-accused, namely, Pritpal Singh Randhawa and the similar was the position with regard to the other license which was issued to other co-accused, namely, Sarabjit Singh at Karnal. It was further stated in the affidavit that the entire process was done with the connivance of the present petitioner and also in connivance with the officials of the office of the District Magistrate, Tarn Taran. It has been further stated in the affidavit that in-depth investigation is required to be conducted as to how the arms license which was issued by the office of the District Magistrate, Tarn Taran in the name of some other person, namely, Sukhdev Singh son of Mewa Singh was changed and the name of co-accused, namely, Pritpal Singh Randhawa was reflected on the website, which now although has been changed and correct name has been uploaded but the same was not done so far as the license of other co-accused, namely, Sarabjit Singh is concerned.

10. Learned State counsel also submitted that issuance of fake and fabricated arms licenses and particularly on the basis of which arms have been sold is a very serious issue and as per the affidavit filed by the Inspector General of Police, Border Range, Amritsar as aforesaid, in-depth investigation is required to be done to unveil the links of the petitioner with the officials of the office of the District Magistrate, Tarn Taran and involvement of the officials, who were authorized to operate NDAL Portal in the office of the

District Magistrate, Tarn Taran and for that purpose, the custodial interrogation of the petitioner is required for elicitation of truth and for qualitative investigation.

11. From the perusal of the aforesaid affidavit filed by the Inspector General of Police, Border Range, Amritsar, it has come on record that both the arms licenses were fake and on the basis of aforesaid arms licenses, weapon was sold by the petitioner. The petitioner is also stated to be involved in one more case of similar nature in FIR No.123 dated 16.06.2017 as aforesaid, although he has been admitted to regular bail by the learned trial Court. He is also involved in one more case i.e. in FIR No.92 dated 16.05.2022, although as per learned counsel for the petitioner, the provisions of the Unlawful Activities (Prevention) Act, 1967 and the Explosive Substances Act, 1908 have since been deleted by the police. The petitioner is already in custody in FIR No.92 dated 16.05.2022. During the course of arguments, learned State counsel submitted that since there was stay of arrest of the petitioner by this Court vide order dated 12.07.2022, the petitioner could not be interrogated.

12. After giving due consideration to the facts and circumstances of the present case and submissions made by learned counsel for the parties, this Court is of the view that the allegations against the petitioner are extremely grave and serious and the magnitude of the case is also very high. The petitioner is already in custody in FIR No.92 dated 16.05.2022 as aforesaid and therefore, this Court does not deem it fit and proper to grant the concession of anticipatory bail to the petitioner.

13. Consequently, finding no merit in the present petition, the same is hereby dismissed. The interim order dated 12.07.2022, shall remain vacated.
14. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

06.10.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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