

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

101

CRM-M-18939-2023

Date of decision : 19.04.2023

Sandeep Singh

Petitioner

V/S

State of Punjab

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Pushpinder Kaushal, Advocate for the petitioner.

ASHOK KUMAR VERMA, J. (ORAL)

1. 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.214 dated 08.11.2022 registered under Sections 307 and 34 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 (to which Section 120-B of the IPC was added later on) at Police Station Samrala, District Ludhiana.

2. Brief facts of the case are that the above-said FIR was registered on the basis of statement made by Dinesh Bhardwaj alleging that on 07.11.2022 at about 06:40 p.m. he was going towards Samrala on his motorcycle. When he reached near the shop of Sihala Mistri, Deepa, accused Simranjit Singh @ Simmi and Karanvir Singh @ Karan armed with illegal weapon came there on motorcycle and opened fire on him. The bullets hit his right arm and abdomen and he fell down on the ground. When the people gathered there, the assailants ran away.

3. Learned counsel for the petitioner submits that the

petitioner was not present on the spot. He is not named in the FIR and has been falsely implicated on the basis of statement made by Gagandeep Kaur wife of complainant-Dinesh Bhardwaj recorded on 20.11.2022 after elapse of 12 days of alleged occurrence. Even Gagandeep Kaur is not an eye-witness of the alleged occurrence. No offence is made out against the petitioner and no injury has been attributed to him. 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. Therefore, the present petition may be allowed.

4. Notice of motion.

5. 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 has vehemently opposed the present petition on the grounds that there are serious allegations against the petitioner. The petitioner is a habitual offender and he is also involved in 10 other cases of similar nature. For thorough investigation of the case custodial interrogation of the petitioner is required. Therefore, the present petition may be dismissed.

6. Having heard learned counsel for the parties, I am of the view that the allegations against the petitioner are serious in nature. As per the prosecution, the petitioner has actively participated in the commission of alleged crime. During investigation it has been found that the petitioner had got procured the fire arm for attack on the

complainant.

7. Furthermore, the antecedents of the petitioner are also not good as he is involved in 10 other cases of similar nature. It has been observed by the Hon'ble Supreme Court in case ***Gudikanti Narasimhulu Vs. Public Prosecutor, High Court of A.P. : (1978) 1 SCC 240*** that deprivation of freedom by refusal of bail is not for punitive purposes but for the bifocal interests of justice. It has further been observed that it is rational to enquire into the antecedents of the man who is applying for bail to find out whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail.

8. Moreover, the investigation is still going on and therefore, custodial interrogation of the petitioners is necessary for finding out the modus operandi of commission of the offence. 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.”

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

19.04.2023

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(ASHOK KUMAR VERMA)
JUDGE

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