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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20668-2023 (O&M)
Date of decision: 11.10.2023

RAHUL

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Bhupinder Banga, Advocate
for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, 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.92 dated 29.03.2023, under Section 25 of the Arms Act, registered at Police Station Bawal, District Rewari, Haryana.

2. Learned counsel for the petitioner has submitted that it is a case where the allegations were that police got an information on the basis of some photograph that one co-accused, namely, Sonu was holding a pistol and an FIR under Section 25 of the Arms Act was registered. He further submitted that the police got recovered the said pistol from the aforesaid co-accused, namely, Sonu, who is already on regular bail now. He further submitted that so far as the role of the present petitioner is concerned, there was no role attributed to him

except for one disclosure statement of the aforesaid co-accused, namely, Sonu, who during the course of investigation, according to the police had stated that the pistol is with the petitioner. He also submitted that in fact in the disclosure statement, the aforesaid co-accused Sonu has stated that the picture was taken in the room of the petitioner but there is no allegation that the petitioner was having any kind of involvement in commission of any offence under the Arms Act. He further submitted that the petitioner is a student and he has no criminal antecedents and is not involved in any other case and the pistol which was seen in the photograph has already been recovered from aforesaid co-accused Sonu. He further submitted that in pursuance of the directions issued by this Court, the petitioner has already joined the investigation and he has cooperated fully with the investigation process not once but for number of times. He also submitted that the petitioner was not even named in the FIR initially and the State is only taking an objection that pistol is to be recovered from the petitioner. However, the aforesaid objection would not be sustainable because it was the disclosure statement of the co-accused on the basis of which State is saying that recovery is to be effected from the petitioner but the petitioner does not possess any kind of pistol or weapon and therefore it cannot become a ground for denial of anticipatory bail to the petitioner especially when he has joined the investigation for number of times and has clean antecedents.

Learned State counsel, on instructions from PSI Surender, again submitted that the petitioner although has joined the investigation process for number of times but the police had not got recovered the said pistol from the petitioner.

I have heard the learned counsel for the parties.

The allegations in the present FIR are against aforesaid co-accused, namely, Sonu that he was possessing a pistol and regarding which a photograph was uploaded on social media. As per his disclosure statement, the name of the petitioner was nominated. Now the State is insisting that the recovery is to be effected from the petitioner whereas the case of the petitioner is that he does not have any kind of pistol or weapon and disclosure statement of co-accused is not admissible in evidence in the absence of any other material gathered during the investigation but no such material has been shown for connecting the petitioner to the offence except for the disclosure statement.

This Court is of the view that the aforesaid objection taken by learned State counsel is not sustainable since the liberty of an individual is involved and the petitioner has clean antecedents and is not involved in any other case and he has already joined the investigation for number of times.

In view of the above, the present petition is allowed and the order dated 26.04.2023, is hereby made absolute.

11.10.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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