

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103

CRM-M-23548-2023

Date of Decision : 10.05.2023

Kirandeep Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present : Ms. Sheena Khanna, 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.09 dated 12.02.2023 registered under Sections 379-B and 34 of the Indian Penal Code, 1860 at Police Station Sadar Banga, District SBS Nagar.

2. The above-said FIR was registered on the statement made by Prem Pal stating that on 11.02.2023 at about 08:00 p.m. he was going to his house from his duty on his motorcycle. When he crossed the bridge of Jandiala, 01 person gave a signal to stop him and when he stopped his motorcycle, 02 persons pushed him and snatched one envelope containing pan card, RC of motorcycle and Rs.1,000/- from him and they have also snatched his motorcycle and ran away from the spot.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. The petitioner

was not named in the FIR. He has been implicated on the basis of disclosure statement made by co-accused. The petitioner has not committed any offence as alleged in the FIR. No specific allegation has been attributed to the petitioner. 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.

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 vehemently opposed the present petition on the grounds that the petitioner along with his co-accused has actively participated in the commission of the alleged offence. 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 along with his co-accused snatched the motorcycle and one envelope containing pan card, RC of motorcycle and Rs.1,000/- from the complainant.

7. Furthermore, investigation is still going on in the present case. For thorough investigation of the case and for recovery of snatched motorcycle, 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.”

8. 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.

9. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

10.05.2023
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(ASHOK KUMAR VERMA)
JUDGE

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