

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

CRM-M-27661-2023

Date of decision : 23.08.2023

HARKIRAT SINGH

....Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Manuj Nagrath, Advocate
for the petitioner.

Mr. Amit Shukla, AAG, Punjab with
ASI Sukhdev Singh.

PANKAJ JAIN, J. (ORAL)

On 30th of May, 2023 while issuing notice of motion following
order was passed :

“The instant petition under Section 438 Cr.P.C., has been filed for grant of anticipatory bail to the petitioner in FIR No.158, dated 24.08.2017, under Sections 323, 341, 506, 451, 148, 149 of the IPC, 1860 (offences under Sections 307, 379, 506 of the IPC, 1860 added later on), registered at Police Station Kartarpur, District Jalandhar Rural (Annexure P-1).

Learned counsel for the petitioner contends that the petitioner was not named in the FIR and has been summoned subsequently under Section 319 of Cr.P.C., by the trial Court during the prosecution evidence. It is also his assertion that the petitioner was not named in the challan and was kept in column No.2, as during the course of investigation, nor any overt act has been attributed to the petitioner neither any alleged recovery of any weapon is pending whatsoever, as there is no direct evidence on record with the police so far.

Learned counsel for the petitioner has also brought to the

notice of this Court an order dated 12.12.2017 passed in three different petitions bearing Nos. CRM-M-43322, 44712 and 46273 of 2017, whereby three coaccused persons have been granted the concession of anticipatory bail and order dated 19.02.2018 passed in CRM-M-48976-2017, wherein other coaccused person namely Harpreet Singh has been granted the concession of anticipatory bail.

Notice of motion.

On the asking of Court, Mr. Rajiv Verma, DAG, Punjab, accepts notice on behalf of respondent-State, who on instructions from ASI Sukhdev Singh submits before this Court that the name of the petitioner does not appear and it cannot be controverted fairly that he was not challaned by the Investigating Agency and put in column No.2 under Section 319 of Cr.P.C., and during the course of investigation, no incriminating material could be found to connect the petitioner with the commissioning of offence.

Considering the aforesaid fairness on the part of the learned State counsel and looking into the totality of submissions made by learned counsel for the petitioner added with the fact that other four co-accused persons have been granted the concession of bail by different orders of this Court, the present petition also deserves to be accepted.

Hence, the petitioner is directed to be released on interim bail in case he joins the investigation on furnishing personal surety/security bonds to the satisfaction of Arresting Officer/Investigating Officer. The petitioner will also come present as and when called for and cooperate in investigation and shall abide by the conditions as envisaged under Section 438 (2) Cr.P.C.

Adjourned to 23.08.2023.”

2. Counsels are ad idem that the petitioner appeared before the Duty Judge on 9th of June, 2023 and furnished bail bonds in compliance of order dated 30th of May, 2023.
3. Without commenting on the merits of the case and in view of

the aforesaid fact, order dated 30th of May, 2023 is made absolute, subject to the conditions as enumerated under Sections 438(2) Cr.P.C.

4. This order should not be treated as "blanket" order. It will not be read granting the petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

5. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency to investigate into the charges against the petitioner.

6. The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.

7. It will be open to the police or the investigating agency to move this Court for a direction under Section 439(2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

August 23, 2023
Dpr

(Pankaj Jain)
Judge

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