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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-29712-2022 (O&M)
Date of Decision: 28.03.2023

Sonu Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Sarabjit Singh Grewal, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. AG, Punjab.

HARSH BUNGER, J. (Oral)

Prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.98 dated 08.06.2022, registered under Sections 457, 380 of the Indian Penal Code and Section 25 of the Arms Act, at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

On 14.02.2023 the following order was passed by this Court :-

“Prayer in the present petition, filed under Section 438 of the Code of Criminal Procedure, is for grant of anticipatory bail to the petitioner in case FIR No.98 dated 08.06.2022 registered under Sections 457, 380 of IPC and Sections 25 of Arms Act, registered at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

On 14.07.2022, the following order was passed by a Co-ordinate Bench of this Court:

“CRM-23837-2022

Application is allowed, as prayed for.

CRM-M-29712-2022

Through the instant petition, the petitioner seeks anticipatory bail in case bearing FIR No.98

dated 08.06.2022 registered under Sections 457, 380 IPC and Section 25/54/59 of the Arms Act, at Police Station Sri Muktsar Sahib.

Learned counsel for the petitioner submits that the alleged occurrence took place on the intervening night of 03/04.06.2022, whereas the present FIR was lodged on 08.06.2022, after a delay of 4 days; that the petitioner had been working as a Sweeper in the house of the complainant for the last more than 7 years and that if the petitioner can be seen in the CCTV footage, then the FIR ought to have been registered on the same day and not at the belated stage.

Notice of motion.

On the asking of this Court, Mr. Ajay Pal Singh Gill, DAG, Punjab, accepts notice on behalf of the respondent-State and prays for time to file the status report.

On his request, adjourned to 03.08.2022.”

On 06.09.2022, the following order was passed by a Co-ordinate Bench of this Court:

“Learned State counsel prays for some more time to file the status report.

On her request, adjourned to 22.09.2022.

In the meantime, no coercive action shall be taken against the petitioner.”

On 13.12.2022, the following order was passed by a Co-ordinate Bench of this Court:

“As per the case of prosecution, the petitioner was found to be involved in the occurrence, which had been captured in the CCTV camera.

Learned counsel for the petitioner submits that in case the photograph of the petitioner is compared with the CCTV footage and the petitioner is found there, he would not press the present petition.

Learned counsel for the petitioner has handed over the photograph of the petitioner and his identity card issued by the complainant, to the learned State counsel, for further supplying the same to the Investigating Officer.

Investigating Agency is directed to compare the photograph of the petitioner with the CCTV footage. Affidavit of the concerned DSP be filed on the aforesaid aspect. Adjourned to 27.01.2023. Interim order to continue.”

In pursuance to order dated 13.12.2022, a status report has been filed by way of affidavit of Jagdish Kumar, PPS, Deputy

Superintendent of Police, (S.D) Sri Muktsar Sahib on behalf of respondent/State of Punjab.

Learned counsel for the petitioner submits that the allegations leveled in the FIR are totally false and concocted. Learned counsel also submits that the bail application moved by the petitioner under Section 438 of the Code of Criminal Procedure Code, for grant of anticipatory bail has wrongly been dismissed by learned Additional Sessions Judge, Sri Muktsar Sahib vide its order dated 07.07.2022. It is also submitted that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency or as directed by this Court or trial Court.

Today, learned counsel for the petitioner has referred to para 3 of the status report dated 26.01.2023, the relevant extract of which reads as under:-

“But as seen by the Investigating Agency of P.S. Sadar Sri Muktsar Sahib the faces of the persons in CCTV Footage are not clearly visible and the same cannot be compared with the photographs of the petitioner. Hence this affidavit.”

Learned counsel appearing on behalf of the State opposes the petitioner’s plea for bail on the ground of seriousness of the offence, however, learned State counsel has not disputed the fact that there is a delay of four days in registration of the FIR and further not disputed the above extracted para 3 of the status report dated 26.01.2023.

List on 28.03.2023.

In the meanwhile, in the event of arrest of the petitioner, he shall be released on ad interim bail to the satisfaction of the Investigating/Arresting Officer. However, he shall join the investigation as and when directed by the Investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner submits that pursuant to the aforesaid order, the petitioner has joined the investigation.

Learned State counsel on instructions from Head Constable Iqbal Singh has not disputed the aforesaid fact of joining of investigation by the petitioner and submits that his custodial interrogation is not required at this stage.

Heard learned counsel for the parties.

Since the petitioner has joined the investigation and his custodial interrogation is not required at this stage, the present petition is allowed and the ad-interim order dated 14.02.2023 passed by this Court is

made absolute.

However, the petitioner shall continue to join the investigation as and when required to do so and abide by all the conditions laid down under Section 438(2) Cr.P.C.

It is made clear that if the petitioner fails to comply with any of the bail conditions laid down under Section 438(2) Cr.P.C, the State would be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioner.

Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for anticipatory bail at this stage.

The petition is accordingly disposed of.

28.03.2023
Himani

(HARSH BUNGER)
JUDGE

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