

210

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M No.37921 of 2023 (O&M)****Date of Decision: 31.08.2023****Jitender****..... Petitioner****Versus****State of Haryana****.....Respondent****CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present: Mr. G.C. Shahpuri, 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 grant of anticipatory bail to the petitioner in FIR No.102 dated 21.03.2020, under Sections 307, 395, 397 IPC and Section 25 of the Arms Act registered at Police Station Sadar Tauru, District, Nuh.

2. The learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and now the co-accused namely, Ajay Pal (Ajay Kumar) has been granted anticipatory bail by the Sessions Court and Surjeet Kumar has been granted regular bail vide order dated 04.09.2020 passed in CRM-M-18803 of 2020 by a Coordinate Bench of this Court. He further submitted that even as per FIR, there is no mention of the petitioner and allegedly 5-6 persons with covered faces and armed with weapons on the intervening night of 20/21.03.2020 had jumped inside the main gate of the warehouse. One of the persons had pistol in his hand and the other was having a knife in his hand and they threatened to kill the complainant and asked the security guard for the key of

the vehicle. Thereafter, they loaded number of LEDs in the vehicle and fled from the spot. Learned counsel for the petitioner further submitted that it was thereafter, one Surjeet Kumar was apprehended and on his disclosure statement, the name of the petitioner was nominated. He submitted that the aforesaid Surjeet Kumar has been granted regular bail by a Coordinate Bench of this Court vide order dated 04.09.2020. He further submitted that even otherwise also as per the affidavit filed by the learned State counsel the allegation with regard to the petitioner is only to the extent of cutting off the wire of the warehouse and thereafter, the offence was committed. Apart from the above, one of the co-accused namely Ajay Pal who according to the police was owner of the vehicle has been granted anticipatory bail by the learned Sessions Court and therefore, the petitioner is also entitled for the grant of anticipatory bail.

3. On the other hand, the learned State counsel while relying upon the affidavit filed by the Deputy Superintendent of Police, District Nuh submitted that it is a case where the petitioner was a part of a gang of 5 to 6 persons who had gone to the warehouse and in order to commit the theft, the petitioner had cut off the lights of the warehouse and thereafter, the crime was committed by entering into the warehouse. He further submitted that the petitioner has been absconding for the last three years and therefore, has opposed the prayer for grant of anticipatory bail to the petitioner as his custody is required to effect the recovery and also for the purpose of elicitation of the truth. He further submitted that the petitioner is also involved in a case under Section 307 IPC in which he is an under-trial. In the present case, the custody of the petitioner is required, especially in view of the fact that he was at large for the last 03 years. Learned State counsel also referred to para no.11 of the petition whereby anticipatory bail of the

petitioner has been dismissed by the learned Sessions Court. Learned State counsel expressed his apprehension that considering the conduct of the petitioner that he has been absconding for the last three years and there is every possibility that in case the petitioner is granted anticipatory bail, he may again flee from justice.

4. I have heard the learned counsel for parties.

5. The present FIR was registered in the year 2020. For the last three years, the petitioner has not been apprehended and is at large. As per learned State counsel, the role attributed to the petitioner is with regard to being a part of a gang who had gone to the warehouse for committing the theft and further the petitioner had cut off the wires of the warehouse. Apart from the above, the petitioner was alleged to be armed with a knife. The reference made by learned counsel for the petitioner with regard to the anticipatory bail granted by the learned Sessions Court to the other co-accused namely, Ajay Pal also needs to be considered. As per learned State counsel, the aforesaid Ajay Pal was involved in the incident but he was not present at the spot. Therefore, the case of the petitioner cannot be considered to be at parity with the aforesaid Ajay Pal.

6. Be that as it may, the petitioner is stated to be at large for the last three years and the apprehension expressed by the learned State counsel as well as that in case the petitioner is granted bail then he may again abscond cannot be ignored. The petitioner is also stated to be involved in one more case under Section 307 IPC. Therefore considering the totality of facts and circumstances of the present case and also keeping in view the fact that the petitioner is at large for the last three years, this Court is of the view that the petitioner does not deserve the concession of anticipatory bail.

7. Consequently, the present petition is hereby dismissed.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

31.08.23

Sonia Puri

(JASGURPREET SINGH PURI)
JUDGE

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