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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-40666-2022

Date of Decision: 18.07.2023

Balwant Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Shivender Pal Singh, Advocate,
for the petitioner.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a petition filed under Section 438 of the Criminal Procedure Code, for grant of anticipatory bail to the petitioner in case bearing FIR No.79, dated 02.07.2022, under Sections 307, 427, 148 & 149 of the IPC and Sections 25 & 27 of the Arms Act, registered at Police Station Zira, District Ferozepur.

2. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and even otherwise also the petitioner has already joined investigation with the police and has fully co-operated with the investigation process. He further submitted that as per the allegation, the petitioner and the other co-accused had fired from their respective arms and so far as the arm used by the petitioner is concerned, as per the allegation, it was a 12 bore gun and he had caused injury to the injured,

namely, Daljit Singh on his shoulder and submitted that the present FIR is dated 02.07.2022 and almost more than one year has elapsed and till date even the opinion of the doctor has not been obtained as to what kind of weapon was used in the commission of offence. He submitted that for number of times the opportunity was given to the State by way of an earlier orders by this Court in this regard because at that point of time even X-ray of the injured was not conducted and thereafter, an affidavit was filed by the concerned Senior Superintendent of Police, District Ferozepur wherein it was so stated that some pellets were recovered from the body of the aforesaid injured, namely, Daljit Singh, but no X-ray of the aforesaid injured was conducted while he was getting treatment from Guru Gobind Medical College and Hospital, Faridkot and it was so stated in the affidavit that the aforesaid recovered pellets have been sent to the Forensic Scientific Laboratory for final opinion and also for an expert opinion, but the same has not been obtained as yet.

3. Learned counsel for the petitioner further submitted that the aforesaid affidavit was filed by the SSP on 10.11.2022 which is almost 8 months ago and till date no such opinion has been obtained as to whether the injury was caused by 12 bore gun or not. He further submitted that even otherwise also the petitioner has joined the investigation and the similarly situated co-accused, namely, Sukhjeet Singh Bhullar, Jagir Singh and Harjeet Singh against whom also similar kind of allegations were levelled in the FIR, have already been granted interim anticipatory bail by a Co-ordinate Bench of this Court and the petitioner is at parity with the aforesaid co-accused while giving the reference of the aforesaid cases, he submitted that the co-accused,

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namely, Jagir Singh had filed CRM-M-37251-2022, Sukhjeet Singh Bhullar had filed CRM-M-33304-2022 and Harjeet Singh had filed CRM-M-36569-2022. He also submitted that the petitioner does not possess any 12 bore gun with him.

3. On the other hand, Mr. Sarabjit Singh Cheema learned DAG, Punjab, on instructions from ASI Harjinder Singh, submitted that so far as the opinion of the Laboratory and expert opinion is concerned, no such opinion has been received till date. He has however submitted that the petitioner has joined the investigation but the recovery of the weapon is still to be made from the petitioner and he is still not co-operating with the investigation process.

4. Mr. Harkaran Singh, Advocate has caused appearance and filed his Power of Attorney on behalf of complainant in Court today which is taken on record and has submitted that matter has since been compromised between the parties and quashing petition based upon compromise has already been filed.

5. I have heard the learned counsel for the parties.

6. It is a case where the allegations were pertaining to giving an injury to the injured, namely, Daljit Singh by way of 12 bore gun but long time has elapsed even after the affidavit filed by the SSP that no expert opinion has been obtained as to by what nature of gun the fire was shot. The learned counsel for the complainant has specifically stated that the matter has been compromised between the parties. Learned State counsel has stated that the petitioner has joined the investigation but recovery of gun is yet to be effected.

It is a specific case of the petitioner that he does not possess any 12 bore gun,

therefore, the objection raised by the learned State counsel that recovery has not been made from the petitioner cannot become a ground for denial of anticipatory bail to the petitioner in view of the fact that long time has elapsed, the police is not even able to get an opinion as to what was the kind of weapon used in the injury and on the other hand, the learned counsel for the petitioner has submitted that the petitioner does not possess any 12 bore gun.

7. Be that as it may, the petitioner otherwise has joined the investigation and the compromise has already been effected between the parties. Apart from the above, the similarly situated co-accused, who are stated to be at parity with the petitioner as aforesaid, have already been granted anticipatory bail by a Co-ordinate Bench of this Court and therefore, this Court is of the view that the petitioner is also deserves the concession of anticipatory bail.

8. In view of above, the present petition is allowed. The petitioner is directed to join the investigation and on his doing so, the petitioner be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

18.07.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

1. Whether speaking/reasoned	Yes/No
2. Whether reportable:	Yes/No