

101

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45699-2023
Date of decision: 14.09.2023

SONU THAKUR

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. G. C. Shahpuri, Advocate
for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.102 dated 21.03.2020, under Sections 307, 395, 397 of the IPC and Section 25/54/59 of the Arms Act, registered at Police Station Sadar Tauru, District Nuh, Haryana.

2. Learned counsel for the petitioner submitted that the petitioner has been falsely implicated in the present case and the other co-accused, namely, Ajay Pal (Ajay Kumar) has been granted the concession of anticipatory bail by the learned Sessions Court and another co-accused, namely, Surjeet Kumar has been extended the benefit of regular bail by a Coordinate Bench of this Court in CRM-M-18803-2020 on 04.09.2020. He further submitted that in the present FIR, the name of the petitioner has not been mentioned and he was nominated

on the basis of disclosure statement of co-accused, namely, Surjeet Kumar. He further submitted that as per the allegations in the FIR, about 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 a 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 also asked the security guard for the key of the vehicle. Thereafter, they loaded number of LEDs in the vehicle and fled away from the spot. He also submitted that since the co-accused, namely, Surjeet Kumar, who was apprehended and on whose disclosure statement the name of the petitioner was nominated has already been extended the benefit of regular bail by a Coordinate Bench of this Court as aforesaid, the petitioner may be considered for grant of anticipatory bail. He further submitted that the aforesaid co-accused, namely, Ajay Pal, who according to the police was owner of the vehicle in which the LEDs were loaded has been granted the concession of anticipatory bail by the learned Sessions Court and therefore on this account also the petitioner is entitled for the grant of anticipatory bail.

3. On the other hand, Mr. Naveen Kumar Sheoran, DAG, Haryana submitted that he has received an advance copy of the present petition and he has also sought instructions from the concerned police official. He submitted that the anticipatory bail petition of the other co-accused, namely, Jitender, who is on a similar footing with the petitioner has been dismissed by this Court by passing a detailed order in CRM-M-37921-2023 on 31.08.2023 and therefore so far as the present petitioner is concerned, his anticipatory bail petition may also be dismissed on the same lines. He further submitted that it is a case where the

petitioner was a part of a gang of 5-6 persons who had gone to a warehouse for the purpose of commission of theft and so far as the present petitioner is concerned, he has physically participated in the commission of offence. He further submitted that there are three more cases of similar nature registered against the petitioner and he used a country-made pistol in commission of the offence and the recovery of the said weapon is still to be effected from the petitioner. He further submitted that the custodial interrogation of the petitioner is required for the purpose of effecting the recovery of aforesaid weapon and for elicitation of truth. He further submitted that the present FIR is of the year 2020 and was registered on 21.03.2020 and more than three years have elapsed that the petitioner is on the run and there is a strong apprehension that in case the petitioner is granted the concession of anticipatory bail then he may flee from justice.

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

5. It is a case where the present FIR was registered more than three years ago and one of the co-accused, namely, Surjeet Kumar was arrested by the police and thereafter on the basis of his disclosure statement, the name of the petitioner was nominated. The petitioner is stated to be involved in three more cases of similar nature. The allegations against the petitioner are pertaining to theft of LEDs which were loaded in the vehicle and the theft was committed from the warehouse after cutting off the electricity wires. The petitioner is on the run for the last more than three years. The argument as raised by learned counsel for the petitioner that the main accused, namely, Surjeet Kumar has already been extended the benefit of regular bail by a Coordinate Bench of this

Court as aforesaid and therefore the petitioner should also be considered for grant of anticipatory bail is not sustainable in view of the fact that the aforesaid co-accused, namely, Surjeet Kumar was arrested and thereafter was admitted to regular bail but the petitioner is on the run for the last more than three years. Further argument as raised by learned counsel for the petitioner that other co-accused, namely, Ajay Pal has been granted the concession of anticipatory bail by the learned Sessions Court is also not sustainable in view of the fact that the anticipatory bail of one of the co-accused, namely, Jitender, who is on a similar footing with the present petitioner has already been dismissed by this Court by passing a detailed order on 31.08.2023. A perusal of the aforesaid order would show that the aforesaid Ajay Pal with whom the present petitioner is claiming parity was although involved in the incident but he was not present at the spot however so far as the present petitioner is concerned, he is stated to be actively involved in the offence and was physically present at the spot as per learned State counsel. Apart from the above, even as per learned State counsel, the petitioner used a country-made pistol in the commission of offence which is still to be recovered from him and therefore the case of the petitioner cannot be treated to be at parity with the aforesaid co-accused Ajay Pal.

6. Be that as it may, a strong apprehension expressed by learned State counsel that in case the petitioner is granted the concession of anticipatory bail then he may abscond cannot be ignored and carries weight in view of the fact that he is on the run for the last more than three years.

7. Therefore, considering the aforesaid totality and circumstances of the present case and keeping in view the fact that the petitioner is on the run for

more than three years and he is involved in three more cases of similar nature, this Court is of the view that the petitioner does not deserve the concession of anticipatory bail.

8. Consequently, finding no merit in the present petition, the same is hereby dismissed.

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

14.09.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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