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

**CRM-M-54647-2022
Date of Decision: 16.03.2023**

Harpal Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Gursimran Singh, Advocate for
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 pre-arrest bail to the petitioner, in Complaint Case No.48 dated 05.10.2022 (wrongly mentioned as FIR in the Lower Court order), registered at Police Station RPF, Ludhiana, under Section 3 of the Railway Property (UP) Act, 1966 registered as per DDE No.45 on 05.10.2022.

On 23.11.2022 the following order was passed by this Court :-

“Prayer in this petition, filed under Section 438 of the Code of Criminal Procedure, 1973, is for grant of pre-arrest bail to the petitioner, in Complaint Case No.48 dated 05.10.2022 (wrongly mentioned as FIR in the Lower Court order), registered at Police Station RPF, Ludhiana, under Section 3 of the Railway Property (UP) Act, 1966 registered as per DDE No.45 on 05.10.2022.

Learned counsel for the petitioner, inter alia, submits that the complaint in question was got lodged against three accused

namely, Nikku, Mustafa Sheikh and Kabirual Sheikh and during their custody, two other accused namely, Arun Kumar @ Ashu and Ram Raj were also included for stealing Railway Property and the petitioner, who is a scrap dealer, has falsely been implicated in the said case on the basis of disclosure statement made by one Ram Raj, who was apprehended on the spot. He further submits that the petitioner was never apprehended on the spot and nothing was recovered from him, yet his bail application filed under Section 438 of the Code of Criminal Procedure has been declined vide order dated 15.10.2022 (Annexure P-5). He also submits that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency or as directed by this Court/trial Court.

Notice of motion.

On the asking of the Court, Mr. Subhash Godara, Additional Advocate General, Punjab, who is present in the Court, accepts notice on behalf of the respondent-State and opposes the petitioner's prayer for interim anticipatory bail on the ground that he is a habitual offender and is involved in another case i.e. FIR No.263 dated 12.10.2022 registered under Section 13 of the Punjab Gambling Act, 1867 at Police Station Division 6, District Ludhiana.

Keeping in view the fact that no recovery was made from the petitioner and his name had figured in a disclosure statement of accused Ram Raj, who has been apprehended from the spot; this Court is inclined to grant interim bail to the petitioner.

List on 19.01.2023.

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 SI Ram Avtar Meena 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 23.11.2022 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.

16.03.2023

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**(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No