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

**CRM-M-57957-2022
Date of Decision: 03.03.2023**

Amit Kumar @ Mitu

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Ashok Kumar Khunger, 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 in case FIR No.0118 dated 27.09.2022, under Section 379-B of the Indian Penal Code, 1860, (Section 473 of Indian Penal Code added later on), registered at Police Station Khuian Sarwar, District Fazilka.

On 12.01.2023 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.0118 dated 27.09.2022 registered under Section 379-B of the Indian Penal Code, 1860 (offence under Section 473 IPC added subsequently) at Police Station Khuian Sarwar, District Fazilka.

Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated. In this case FIR which has been registered on the statement of one Sh.

Sandeep Singh s/o Angrej Singh, who knew the other co-accused namely, Ravi Soni, Rishabh Jakhar and Ajay Kumar @ Aju. It is submitted that the petitioner is not named in the FIR, however, he has been nominated as an accused in the FIR without any basis vide Rapat No.25 dated 02.11.2022. He further submits that the petitioner has no connection direct or indirect with the alleged occurrence. It is further submitted that the offences under Sections 379-B and 473 of the Indian Penal Code are not made out against him and even his identity is not mentioned in the FIR. Learned counsel also submits that the alleged recoveries have already been effected from co-accused of the petitioner, who were named in the FIR and nothing is to be recovered from the petitioner, yet the bail application moved by him under Section 438 of the Code of Criminal Procedure Code, for grant of anticipatory bail has wrongly been dismissed by learned Sessions Judge, Fazilka, vide its order dated 14.11.2022. 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.

Learned counsel appearing on behalf of the State opposes the petitioner's plea for bail on the ground of seriousness of the offence and submits that the petitioner does not deserve the concession of anticipatory bail. However, it is not disputed by learned State counsel that recovery already stands effected from other co-accused.

List on 03.03.2023.

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 ASI Manjit 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 12.01.2023 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.

03.03.2023

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**(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No