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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-61161-2022
Date of Decision: 28.04.2023

Gurnek Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Gurpal Singh Sandhu, Advocate assisted by
Mr. Rajat Dogra, Advocate
for the petitioner.

Mr. Subhash Godara, Additional, A.G., Punjab.

Mr. Vikram Satpal Anand, Advocate
for the complainant.

HARSH BUNGER, J. (Oral)

Prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.220, dated 11.12.2022, registered under Sections 307, 506, 148, 149 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1954, at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

2. On 01.03.2023 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.220 dated 11.12.2022 registered under Sections 307, 506, 148 and 149 of Indian Penal Code, 1860 and under Sections 25 and 27 of Arms Act, 1954 registered at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

Learned counsel for the petitioner submits that the instant FIR was registered on the basis of the statement made by one

Gursewak Singh (complainant) wherein he alleged that on 11.12.2022 he had gone to attend the marriage of Yadwinder Singh cousin of Gurpreet Singh which is being solemnized at Naraingarh Palace, Malout Road, Sri Muktsar Sahib. At about 4:30 PM, Harmesh Singh alias Mahesha, who proclaimed himself as Sarpanch of the village, his brother Gurnek Singh, his son Gurvir Singh came to them near stage and started scuffling with them and objected to getting their names announced again and again. When they stopped them, Harmesh Singh alias Mahesha got enraged and took out his pistol and fired from it towards his brother Gurlal Singh with an intention to kill him, which hit him on the left side of his abdomen below his heart and his brother fell down on the ground. Due to fire, there was ruckus in the palace. Thereafter Harmesh Singh alias Mahesha along with other co-accused fled away from spot while extending threats to the complainant party. Learned counsel for the petitioner further submits that the version of FIR is highly improbable and story is unbelievable one and no role is attributed to the present petitioner. No offence is made out against the petitioner and the petitioner has no concern with the alleged crime. The only allegation is that he was present at the spot when the co-accused Harmesh Singh @ Mahesha fired a gun shot injury to Gurlal Singh and he was there to attend the marriage. Nothing is required to be recovered from the petitioner. 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 as well as the counsel for complainant have opposed the petitioner's plea for bail on the ground of seriousness of the offence, however, it is not disputed by them that except presence of petitioner at the spot, no other overt act has been attributed to petitioner.

List on 28.04.2023.

Without commenting anything on the merits of the case, the petitioner is directed to join the investigation as and when directed by the Investigating agency and in the event of arrest of the petitioner, he shall be released on ad interim bail to the satisfaction of the Investigating /Arresting Officer and the petitioner shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C. ”

3. Learned counsel for the petitioner submits that pursuant to the aforesaid order, the petitioner has joined the investigation.

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4. Learned State counsel on instructions from SI Sukhwinder 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.

5. Heard learned counsel for the parties.

6. 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 01.03.2023 passed by this Court is made absolute.

7. 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.

8. 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.

9. 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.

10. The petition is accordingly disposed of.

28.04.2023

Himani

**(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No