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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M No. 24383 of 2023 (O&amp;M)

Date of decision : 21.02.2024

Gurdeep Singh &amp; anr.

..... Petitioners

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

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Present :- None for the petitioners.

Mr. Jasjit Singh, DAG, Punjab

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PANKAJ JAIN, J. (ORAL)

1 On 19.05.2023 the following order was passed:-

“CRM-22936-2023

*Prayer in the present application is for placing on record affidavit of applicant-petitioner No.2 as Annexure P-3.*

*Application is allowed, as prayed for.*

CRM-M-24383-2023

*1. The jurisdiction of this Court under Section 438 Cr.P.C., has been invoked for the grant of anticipatory bail to the petitioners in FIR No. 59, dated 29.03.2023, under Section 379 IPC and Sections 61, 1 and 14 of Excise Act, registered at Police Station Jandiala, Amritsar (Rural).*

*2. Learned counsel for the petitioners contends that the petitioners have been arrayed in the list of accused on the basis of disclosure statement of their co-accused namely Sunny, who has apprehended by the Police and is in custody. It is also his assertion that recovery whatsoever has been effected from the house of the co-accused Sunny and nothing has been recovered from the possessions of the petitioners. He also refers to the cases pending against the petitioner No.1, which are three in number, wherein he is on bail in one case and in other two cases, he is yet to be extended the concession of bail. He also assert that one case with regard to the same incident*

*has been registered against petitioner No.2 in different Police Station, which tantamount to misusing the jurisdiction and abuse of powers, as is against the very principle of double jeopardy.*

*3. Notice of motion.*

*4. On the asking of Court, Mr. Rajiv Verma, DAG, Punjab accepts notice on behalf of respondent-State, who on instructions from ASI Baldev Singh submits that the petitioner No.1 is involved in three other cases and could not controvert the fact with regard to another FIR registered against petitioner No.2, which pertains to instant occurrence itself, but in a different police station.*

*5. Having heard learned counsel for respective parties and examining the facts in totality, this Court has already observed that pendency of other cases qua the accused cannot be a predicament or bar to release the accused on bail in the instant case, as the evidence or incriminating material on the basis of which he is nominated as an accused in the other FIR cannot be read as a material evidence in the instant case and is to be adjudicated on the basis of material evidence in that particular case, as has been observed by this Court in the case of **Baljinder Singh alias Rock vs. State of Punjab**” CRM-M25914-2022 decided on 02.03.2023. Even, otherwise, the recovery whatsoever has been effected the from the house of co-accused namely Sunny, who is in custody and nothing has been recovered from the possession of the petitioners, which fact has not been controverted by learned State counsel as well on instructions from police official present in Court to assist him.*

*6. In light of the aforesaid facts and discussions made hereinabove, the petitioners are directed to be released on interim bail in case, they join the investigation on furnishing personal surety/security bonds to the satisfaction of Arresting Officer/Investigating Officer. The petitioners will also come present as and when called for and cooperate in investigation and shall abide by the conditions as envisaged under Section 438 (2) Cr.P.C.*

*Adjourned to 17.07.2023.”*

2            Learned State counsel on instructions from ASI Harjinder Singh has stated that pursuant to the order dated 19.05.2023 the petitioners have joined investigation and are no longer required for custodial interrogation.

3

In view of above, the interim order dated 19.05.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

4

This order should not be treated as "blanket" order. It will not be read granting petitioners indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

5

This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the petitioners.

6

The petitioners shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioners in case the occasion arises.

7

It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

8

Petition stands disposed off.

9

Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

21.02.2024

Pooja sharma-I

( PANKAJ JAIN )

JUDGE

Whether speaking/reasoned

Whether Reportable :

Yes

No