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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31015-2024
Reserved on: 03.09.2024
Pronounced on: 13.09.2024

Amarjit alias Munna ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. G.B.S. Dhillon, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
34	15.05.2024	Aur, District SBS Nagar	115/120-B IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, seeking anticipatory bail.

2. Per paragraph 8 of the bail petition, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	23	21.04.2023	450, 307, 324, 323, 427, 148, 149 & 120-B IPC	Aur, District SBS Nagar
2	0006	29.01.2024	363, 365, 148, 149, 120-B, 506 IPC	Aur, District SBS Nagar

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“That it is respectfully submitted that case FIR No. 34 Dated 15.05.2024 under section 115,120-B of IPC registered at Police Station Aur District Shahid Bhagat Singh Nagar (Punjab) on the basis of secret information received through a secret informer to Station House Officer Police station Aur when he was present along with police party at bus stand Mahal Khurd for patrolling and checking of bad elements. A special informer came there and gave the information separately that petitioner Amarjit Munna son of Surjit Ram who has old enmity with some person of village Aur and their earlier litigation is going on by virtue of this enmity. The petitioner Amarjit Munna with the intention to get that person killed discussed with one Parminder Singh @ Sonu son of Gian Chand resident

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of village Garcha Police station Aur for committing this crime. Then Parminder Singh @ Sonu had also introduced petitioner Amarjit Singh Munna with one Sandeep Kumar Deep son of Sardara Singh resident of village Malpur Police station Aur and Surinder Kumar alias Bittu son of Kharaiti Lal resident of Rahon. Now they all have fixed the time for tomorrow for the photo of the target person and place. If said Parminder @ Sonu, Sandeep Kumar @ Deep, Surinder Kumar Bittu and Amarjit Kuma@ Munna are nabbed immediately, then the life of that person of village Aur can be saved. On found the information being correct and reliable, the ruqa was written and send to the Police station Aur for the registration of the case against petitioner Amarjit Munna son of Surjit Ram, Parminder Singh Sonu son of Gian Chand, Surinder Kumar Bittu son of Kharaiti Lal and Sandeep Kumar Deep son of Sardara under Section 115,120-B of IPC and the efforts were initiated to arrest the accused to thwart their plan.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.
5. The State's counsel opposes bail and refers to the reply.
6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“That on the same day i.e. on 15.05.20224, Inspector Hemant Malhotra, Station House Officer P.S. Aur arrested accused Parminder Singh Sonu son of Gian Chand, Surinder Kumar Bittu son of Kharaiti Lal and Sandeep Kumar Deep son of Sardara while they all were travelling in a car bearing No. PB- 08EA-6732 in the area of village Mallpur Police Station Aur.

During the interrogation of these accused, they all confessed that they were contacted by petitioner Amarjit @ Munna to kill one Kamaljit Sajan of Village Aur for which they arranged weapons to kill him. They further confessed that they have concealed these weapons i.e. one iron rod and one small sword under the matt of their car. The disclosure statement of all these three accused recorded and on the basis of their disclosure statement one iron rod and one small sword arranged by them to execute the murder of Kamaljit @ Sajan recovered under the matt from the dickey of car. The translate copy of disclosure statement of all three accused is attached as Annexure R-1.

A. Role of the Petitioner:-

During the investigation of this case it is revealed that petitioner is main conspirator to plan the murder of his rival Kamaljit @ Sajan. It is also revealed from the interrogation of his three co-accused namely Parminder Singh Sonu son of Gian Chand, Surinder Kumar Bittu son of Kharaiti Lal and Sandeep Kumar Deep son of Sardara that petitioner contacted with these persons to kill Kamaljit Sajan for which they also arranged deadly weapons i.e small sword and iron rod and timely arrest of these accused and recovery of these weapons by Station House Officer thwarted their plan before its execution. The previous record also shows that there is

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already enmity between Petitioner and Kamaljit Sajan as a case FIR No. 23 Date 21.04.2023 U/s 450,307,324,323,427,148,149 of IPC was registered against petitioner on the complaint of Kamaljit Sajan and another case FIR No. 06 Date 29.01.2024 U/s 363,365,148,149,120- B and 506 of IPC was also registered against petitioner and others on the complaint of one Upkarndeeep son of Makhan Ram of village Aur, who is worker at the shop of Kamaljit Sajan against whom petitioner hatched criminal conspiracy whereas a case FIR No. 46 Dated 06.07.2023 U/s 385,506 IPC was registered on the complaint of petitioner against Kamaljit Sajan for making extortion call of Rs. 10,000,000/- to him. Hence there is reasonable ground to believe the contents of disclosure statements got recorded by co-accused Parminder Kumar @ Sonu and others which clearly describes the role of petitioner to prepare a plan to kill Kamaljit Sajan and contacted these accused to execute it. The whole plan to kill Kamaljit Sajan can only be unearthed after the custodial interrogation of petitioner.

B. The evidence against the petitioner

It is submitted that during the investigation of this case carried out till date, the interrogation of all three co-accused carried and their disclosure statement also recorded in which they clearly indicates the role of petitioner to hatch criminal conspiracy to kill Kamaljit Sajan and contacted them to execute his plan. The custodial interrogation of petitioner is required for thorough probe of the case and to establish a close link between already arrested accused persons contacted by petitioner to execute his plan with recovered weapons.

C. In case of dismissal of this petition, would the police arrest the petitioner in this FIR, and do they need the accused's police custody?

The petitioner is main conspirator in this case who hatched a criminal conspiracy with three other accused to kill Kamaljit Sajan hence his custodial interrogation is required in this case for thorough probe and unearth his whole plan. The custodial interrogation of accused will also help the probe agency to collect technical evidences to establish his link with already arrested three accused."

7. The above-captioned evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing the same for the bail stage.

8. Given the quality of evidence, its admissibility, coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage.

9. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

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10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

11. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. This order is subject to the petitioner’s complying with the following terms.

13. The petitioner is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

14. This order is subject to the petitioner’s complying with the following terms. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

15. Given the background of allegations against the petitioner, it becomes paramount to protect the victim and their family members, as well as the members of society, and incapacitating the accused would be one of the primary options until the filing of the closure report or discharge, or acquittal. Consequently, it would be appropriate to restrict the possession of firearm(s). [This restriction is being imposed based on the preponderance of evidence of probability and not of evidence of certainty, i.e., beyond reasonable doubt; and as such, it is not to be construed as an intermediate sanction]. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority within fifteen days from release from prison and

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inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in the concerned rules. Restricting firearms would instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.

16. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense. In Mohammed Zubair v. State of NCT of Delhi, 2022:INSC:735 [Para 28], Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of Hon'ble Supreme Court holds that "The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts, while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed."

17. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

18. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

19. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

13.09.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.