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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.32283 of 2024
Date of decision: 10.07.2024

Gursewak Singh @ Simmu

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Ms. Harpreet Maini, Advocate,
for the petitioner (Through Video Conferencing)

Ms. Ruchika Sabherwal, Sr. DAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 438 of Cr.P.C. seeking pre arrest bail in case arising out of FIR No.51 dated 06.05.2024 registered under Section 379 of IPC at Police Station Kabarwala, District Sri Muktsar Sahib, on the basis of complaint filed by the complainant Gurmeet Singh alleging therein that on the night of 13/14.04.2024, theft of oil from 10 KVA transformer installed in his fields as well as from the transformers installed in the nearby fields had

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been committed and he had come to know that the petitioner along with the co-accused and some other unidentified persons had hand in the same. After registration of FIR, the investigation is underway. The petitioner along with the co-accused had moved applications for grant of pre arrest bail before the Court of learned Additional Sessions Judge, Sri Muktsar Sahib, which had been dismissed vide order dated 04.06.2024.

2. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. There is delay of 22 days in reporting the matter to the police. There is nothing on record to show as to how the complainant came to know that about the factum of involvement of the petitioner in this case. He is ready to join the investigation. His custodial interrogation is not required. Therefore, it is argued that he deserves to be extended benefit of pre arrest bail.

3. Learned State counsel, on the other hand, has vehemently argued that the petitioner has been specifically named in the FIR. Thorough investigation is required to be conducted in the matter and recovery of the stolen oil is to be effected and hence, his custodial interrogation is must. She has further argued that even otherwise, no extraordinary circumstance has been made out warranting grant of pre arrest bail to the petitioner. Therefore, it is urged that the petition is liable to be dismissed.

4. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the

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record.

5. The petitioner along with the co-accused is alleged to have committed theft of oil from transformer installed in the field of the complainant as well as the adjoining fields on the intervening night of 13/14.04.2024. No doubt, there is delay of 22 days in reporting the matter to the police. However, it will only be after conducting proper investigation in the matter that the fact that the petitioner was involved in this case or in the theft or not can be determined. It is well settled proposition of law that the powers under Section 438 of Cr.P.C. are required to be exercised in extraordinary and sparing circumstances and not in a routine manner. More so, custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of Cr.P.C. The Court has also to see that an order of anticipatory bail should not operate as inroad in the normal legal procedure of criminal cases by the trial Court. Keeping in view the nature of the subject offence and the role attributed to the petitioner in commission of the same, the quantum of sentence which the conviction may entail and further the fact that no exceptional circumstance entitling the petitioner to seek concession of pre arrest bail has been made out, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

6. It is clarified that observations made hereinabove shall not be

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construed as an expression of opinion on the merits of the case.

10.07.2024

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(MANISHA BATRA)

JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No