

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

106

CRM-M-33969-2024
DECIDED ON: 18.07.2024

VARINDER SINGH

... PETITIONER

VERSUS

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Sukhdeep Singh Bhinder, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J

1. Relief Sought

The jurisdiction of this Court under Section 482 of BNSS has been invoked seeking pre-arrest bail to the petitioner in case FIR No. 51, dated 17.06.2024, under Sections 25 (6) (7) and (8), of Arms Act, 1959, registered at Police Station Mehna, District Moga.

2. Facts

The prosecution story as set up in the FIR reads as under:-

On 17.06.2026, at about 5:00-6:00 pm, the police party headed by ASI Ashok Kumar was on routine patrolling from the office of CIA, Moga, Camp at Mehna, in the area of PS Mehna, when near T-Point, Village Rauli, GT Road, Moga, ASI Ashok Kumar received a secret information that Satpal Singh son of Charan Singh, resident of Beerh Rao Ke, District Moga, who was

member of a gang operated by dreaded gangsters Davinder Bambiha through Manjit Singh @ Chandi son of Jagsir Singh, resident of Bode, District Moga and gangster Manjit Singh @ Chandi had got arranged heavy quantity of Arms and ammunition through Satpal Singh to commit some offence and the said Satpal Singh in black coloured T-shirt with lowers/ track pants with the black coloured kit (bag) on his shoulder was present at Bus Stop, Mehna, GT Road, Moga waiting for someone and if raid be conducted, he could be apprehended red handedly. Finding the information to be trustworthy and reliable, ruqa was sent to the Police Station, on the basis of which the present case FIR was registered.”

3. Submissions

On behalf of the petitioner:

Learned counsel for the petitioner has submitted that he has been falsely implicated in the present case and present case has been registered on the basis of secret information. It is further submitted that as initially he was not named in the FIR but later on his name has been surfaced on the basis of disclosure statement of one Satpal Singh, which has no evidentiary value as per law. Moreover, nothing has been recovered either from the possession of the petitioner or from any other place, which is owned by him. The alleged recovery of weapon has been made from a Bus Stop after sunset, which is a public place and the police has failed to join any independent witness.

On behalf of respondent-State and the complainant

On the other hand, learned State Counsel submits that the name of the petitioner has been nominated as an accused on the basis of disclosure statement made by one Satpal Singh from whom the recovery of alleged

weapons has been made. He had received the said country made pistols along-with live live cartridges at the instance petitioner-Varinder Singh and Ramandeep Singh @ Ramna, which were further delivered to them. Moreover, the investigation of the case is still pending and custodial investigation/interrogation of the petitioner would be required to unearth the motive.

Heard learned counsel for the respective parties.

4. Analysis and conclusion:

In case of criminal investigation, the normal procedure prescribed for curtailing the right to life & liberty, is that the investigating officer can arrest the accused even without warrant. The Court has extraordinary power to protect an innocent person. However, this power has to be exercised by the Courts with due circumspection.

The allegation against the petitioner is that at his instance accused Satpal Singh had received the country made pistols along-with 8 live cartridges, which is serious offence and sufficient enough to infer this Court that the petitioner purportedly engaged in unlawful activities aimed at gaining financial benefits through violence or illegal means. To facilitate a thorough investigation and to unearth all the ramifications involved in the present case, custodial interrogation of the petitioner is necessary.

More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 438 Cr.P.C., is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in ***“State vs. Anil Sharma”; (1997) 7 SCC 187***, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favourable order under Section 438 of the code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also material which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods needs not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

In the attending facts and circumstances, I am not inclined to grant privilege of anticipatory bail to the petitioner, and hence, the prayer for anticipatory bail of the petitioner, is, hereby, rejected. Accordingly, this anticipatory bail application is hereby dismissed.

All other misc. application(s), if any, also stand(s) disposed of accordingly.

18.07.2024
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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No