



CRM-M-36570-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(101)

CRM-M-36570-2024
Date of Decision : 16.10.2024

Sagar @ Sagar Jaswal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Rajesh K. Dadwal, Advocate
for the petitioner.

Mr. Pardeep Bajaj, DAG, Punjab.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, filed under Section 438 of Cr.P.C., a prayer is made for grant of anticipatory bail to the petitioner in FIR No.67 dated 08.05.2022 (Annexure P-1), under Sections 307, 323, 324, 148, 149 and 336 of the IPC, 1860 (offence under Sections 201, 325 and 326 of the IPC, 1860 was added later on), and under Sections 25 and 27 of the Arms Act, 1959, registered at Police Station Sadar Hoshiarpur, and later on DDR No.17 dated 12.06.2022 (Annexure P-2), and DDR No.38 dated 17.06.2022 (Annexure P-3), was also registered.

2. This Court, on dated 01.08.2024, had passed the following order:-

“Through the instant petition, as instituted under Section 438 of the Cr.P.C., the petitioner has sought the concession of his being enlarged on anticipatory bail, in case FIR No.67 dated 08.05.2022, under Sections 307, 323, 324, 148, 149, and 336 of IPC, and under Sections 25



and 27 of the Arms Act, registered at Police Station Sadar Hoshiarpur, (later on added Sections 201, 325 and 326 of IPC, and registered a DDR No.17 dated 12.06.2022 (Annexure P-2), and DDR No.38 dated 17.06.2022 (Annexure P-3), at Police Station Sadar Hoshiarpur, District Hoshiarpur).

Learned counsel for the petitioner submits that name of the petitioner has not been figured out in the FIR, rather after a month, DDR has been registered, wherein, the allegations against the petitioner are that he opened a fire shot in the air, with his pistol, which he was holding in his hand. Learned counsel for the petitioner further submits that it is not a case where anyone has suffered gun shot injury.

Notice of motion.

Mr. Pardeep Bajaj, DAG, Punjab., waives service of notice on behalf of the respondent-State.

In the meantime, the petitioner is directed to join the investigation and to appear before the investigating agency as and when called upon to do so. In the event of his arrest, he shall be admitted to interim bail on his furnishing bail bond to the satisfaction of the Arresting/Investigating Officer. The petitioner shall abide by the terms and conditions as envisaged under Section 438(2) Cr.P.C.

List on 25.09.2024.”

3. In deference to the directions issued by this Court, though the petitioner has joined the investigation, however, as per the learned State counsel, the petitioner did not cooperate with the investigating agency, as the weapon of offence i.e. a pistol, which was used in the alleged crime, is yet to be recovered from the petitioner.



4. In view of the specific stand of the learned State counsel, the petitioner was again directed to rejoin the investigation and fully cooperate with the investigating agency. The petitioner was granted two effective opportunities to handover the weapon of offence. Today, the learned State counsel on instructions from the learned counsel for the petitioner submits that the petitioner has never used the weapon of offence and, therefore, no question arises to surrender or to get recover any weapon of offence.

5. While referring to the contents of the FIR (supra), learned counsel for the petitioner further submits that the petitioner has not been named in the FIR (supra), nor any specific role has been assigned to him therein, that he is a person, who has opened a gunshot fire, whereas, his name was involved in the instant case after a month, by recording a different DDR No.17 dated 12.06.2022, whereby, he is shown to have opened a gunshot fire in the air. He further submits that the petitioner cannot be forced to implicate himself under the garb of completion of the investigations.

6. Learned State counsel, by referring to the contents of the short reply/affidavit dated 23.09.2024, submits that though the investigation itself reflects that the petitioner is a person, who had opened the fire, therefore, for completion of the investigation, the recovery of weapon of offence is required.

7. This Court has heard the rival submissions made by learned counsel for the parties concerned, and has gone through the record as well.

8. Be that as it may, since the petitioner has joined the investigation, and solely because the weapon of offence i.e. a pistol, has not been recovered, which is also a disputed question of fact, which needs to be proved by the prosecution during the course of the trial, therefore, this Court is of the view



that the interim granted to the petitioner by this Court, need not be vacated. Accordingly, the instant petition is allowed and the order dated 01.08.2024, is hereby, made **absolute** subject to the hereinafter extracted conditions:-

- “(i) the petitioner(s) shall not commit an offence similar to the present offence;
- (ii) the petitioner(s) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- (iii) the petitioner(s) shall make himself/herself available for interrogation by a police officer as and when required.”

- 9. This order should not be treated as “blanket” order. It will not be read granting petitioner(s) 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.
- 10. Needless to say, that anything observed hereinabove, shall not be construed to be an expression of opinion, on the merits of the case.

(KULDEEP TIWARI)
JUDGE

October 16, 2024
Manpreet

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