

102 **IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM M-44841-2023 (O&M)
Date of Decision: 19.01.2024

Shamshad @ Mohammad Shamshad

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Angrej Singh, Advocate,
for the petitioner.

Mr. M.S Tiwana, AAG, Punjab
assisted by ASI Harbaksh Singh.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure (for short “Cr.P.C”) for grant of pre-arrest bail to the petitioner in FIR No.51 dated 10.04.2023, under Sections 307 & 323 read with Section 34 IPC at Police Station, City-I, District Malerkotla.

2. Allegations in brief are that petitioner along with co-accused in furtherance of their common intention, caused injuries on the person of complainant Usman.

3. A Coordinate Bench of this Court vide order dated 11.09.2023, granted interim bail to petitioner and the same reads as under:-

“Prayer in the present petition is for grant of anticipatory bail to the petitioner under Section 438 Cr.P.C in FIR No.51 dated 10.04.2023, under Sections 307, 323 and 34 IPC, at Police Station, City-I, District Malerkotla.

Learned counsel for the petitioner, inter-alia, argued that the only role attributed to the petitioner is that he had raised lalkara and no injury has been attributed to him. As per the MLR, there is only one injury found on the person of the

complainant, which is opined to have been caused with a blunt weapon. It is further submitted that the iron dah mentioned in the FIR is a sharp-edged weapon, recovery of which has been effected from Usman Rana @ Lala, who is alleged to have inflicted the injury. The petitioner is not involved in any other case. He is ready and willing to join the investigation and abide by any stringent conditions as may be imposed by this Court.

Notice of motion for 21.11.2023.

Mr. Sanish Girdhar, AAG, Punjab accepts notice on behalf of the respondent-State and on instructions from ASI Harpreet Singh, PS Malerkotla (City-I), states that the weapon of offence has been recovered, which is a sharp-edged weapon. He seeks and is granted time to file the reply/status report.

In the meanwhile, petitioner shall join investigation and would associate as and when called and in the event of arrest, the petitioner shall be admitted to ad interim bail on his furnishing personal bond and surety to the satisfaction of Arresting/Investigating Officer. The petitioner shall abide by the conditions specified in Section 438(2) Cr.P.C.”

4. Learned counsel on instructions from petitioner submits that in pursuance of the aforesaid order, he has joined investigation and his custodial interrogation is not required.

5. The above factual position is duly acknowledged by learned State Counsel, on instructions from quarter concerned and fairly submitted that custodial interrogation of the petitioner is not required, at this stage.

6. In view of above, interim order dated 11.09.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

7. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.

8. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
9. Disposed off accordingly.
10. Pending criminal misc. application(s), if any, shall also stand disposed off.

19.01.2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No