IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

103 **CRM-M-49343-2024**

Date of decision: 3rd October, 2024

Manjot Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Amit Arora, Advocate for the petitioner.
Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

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MANISHA BATRA, J (ORAL):-

Present petition has been filed by the petitioner seeking anticipatory bail in case bearing FIR No. 183 dated 16.08.2024 registered under Sections 309(1), 333, 351(1), 3(5) of Bharatiya Nyaya Sanhita, 2023 (BNS) and Sections 25 and 27 of Arms Act, 1959 (Offences under Section 61(2) of Bharatiya Nyaya Sanhita (BNS), 2023 and under Section 28 of Arms Act, 1959 added later on), at Police Station Sadar Amritsar, District Amritsar.

2. Adumbrated facts as emanating from the record are that aforementioned FIR was registered on the basis of a statement recorded by the complainant- Rajan Kumar on 16.08.2024 alleging therein that on the same day at about 2:00 PM, the door bell of his house had rung. On opening the main gate, he found two unknown youths who were wearing black caps on their head to be present. They came inside by telling the complainant that they had come to update Jio Wi-Fi installed in his house. Thereafter, one of

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them pointed a pistol towards him and robbed him of 250 grams of gold ornaments, his mobile SAMSUNG phone and Rs. 10,000/- kept in the locker of his house and then while extending threats to him, they fled away. After registration of FIR, investigation proceedings were initiated. During investigation, on the basis of a secret information, the juvenile in conflict-with-law 'V' (name withheld) was detained. Upon questioning, he disclosed that his father i.e. the present petitioner, who was a long time friend of the complainant had brought a toy gun some days back and had told him that they had to create/enact an incident of robbing the complainant-Rajan of gold etc. at his house. He had also given caps and masks to him on 15.08.2024 and then both of them while wearing caps and masks had gone to the house of the complainant to play drama of committing loot, wherein the complainant had handed over one empty black colour envelop to them. Since as per the plan, the complainant had to keep entire gold with him. On the basis of his statement, the present petitioner was also nominated in this case. Apprehending his arrest, present petitioner had moved an application for grant of pre-arrest bail before the Additional Sessions Judge, Amritsar which was dismissed vide order dated 27.08.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He was not named in the FIR. The same had been registered against unknown persons. His son is a minor. The disclosure statement stated to have been suffered by him cannot be considered to be admissible in evidence. Infact, there was a monetary dispute between the complainant and himself. Now a compromise has been

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effected between them and a written agreement (Annexure P-3) has been executed between the parties in this regard. The petitioner had already moved a petition bearing CRM-M-43793-2024 for seeking quashing of the aforesaid FIR on the basis of compromise. His custodial interrogation is not required. He is ready to join investigation. The juvenile in conflict-with-law i.e. his son has since been extended benefit of pre-arrest bail. Therefore, it is urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel who has advance notice of the petition and is ready to argue the matter has submitted that the son of the petitioner was nominated as an accused on the basis of secret information. He had suffered disclosure statement to the effect that the FIR was got lodged by enacting a false incident of committing offence of robbery in connivance with his father i.e. present petitioner and complainant and infact no robbery was committed. Even the complainant himself has been nominated as an accused in this case now. No extra ordinary or sparing circumstance has even otherwise been made out for the purpose of extending benefit of pre-arrest bail to the petitioner. Powers for extending benefit of pre-arrest bail are to be exercised in exceptional circumstances which are not made out. No consideration can be given to the compromise stated to have been arrived at between the parties. Therefore, it is argued that the petition does not deserve to be allowed.

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

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6. As per the allegations, as on 16.08.2024, an incident of robbery had taken place in the house of the complainant and gold ornaments, cash and one cell phone had looted from the same. The juvenile in conflict-with-law who is son of the present petitioner is alleged to have disclosed that the incident had been enacted in connivance with the complainant and no robbery had actually taken place. The petitioner is relying upon an affidavit (Annexure P-3) shown to be sworn by the complainant saying that there was some dispute between them. As per the petitioner, it was only a monetary dispute between the complainant and himself which has been given colour of the incident. The stand as taken in the petition and in the disclosure statement of the juvenile in-conflict with law are not in consonance. No relevance can be given to the contents of affidavit sworn by the complainant in favour of the petitioner at this stage. The complainant might have concocted a false story. However, no exceptional or extra ordinary circumstance warranting exercise of powers for grant of pre-arrest bail has been made out in this case. Rather the custodial interrogation of the petitioner is required for conducting thorough investigation in the matter by the police to elicit information about the truth as to the incident. Therefore, finding no sufficient ground to allow the petition, the same is dismissed.

7. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

[MANISHA BATRA]
JUDGE

3rd October, 2024

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1. Whether speaking/ reasoned : *Yes / No*

2. Whether reportable : *Yes / No*

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