

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

CRM M-54053-2023 (O&M)
Date of Decision: 15.01.2024

Sunil Kumar @ Sheela

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Nippun Sharma, Advocate,
for the petitioner.

Mr. Jashan Preet Singh, DAG, Punjab.

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.168 dated 07.08.2023, under Sections 307, 506 & 148 read with Section 149 IPC and Sections 25 & 27 of Arms Act, 1959 at Police Station, Division No. 8, District Jalandhar.

2. Allegations in brief are that petitioner was carrying a pistol in the group of 5/6 persons and they attacked the complainant.

3. A Coordinate Bench of this Court vide order dated 25.10.2023, granted interim bail to petitioner and the same reads as under:-

“The jurisdiction of this Court has been invoked under Section 438 Cr.P.C., seeking anticipatory bail to the petitioner in FIR No.0168 dated 07.08.2023, under Sections 307, 506, 148 and 149 of IPC read with Sections 25 & 27 of Arms Act, 1959, registered at Police Station Division No.8, Jalandhar (Annexure P-1).

Learned counsel for the petitioner contends that though, the petitioner was alleged to be carrying a pistol in the group of 5 to 6

persons, who attacked the complainant, but the said weapon is a licensed one and was not used at all in the commissioning of any offence whatsoever. He also refers to the contents of the FIR to assert that even no injury has been attributed qua the the petitioner to have been inflicted on any person on the complainant side, therefore, prays for anticipatory bail submitting that neither any recovery is to be effected nor he has been attributed any overt act and, therefore, taking him into the custody will not serve any purpose, as he is ready and willing to join the investigation.

Notice of motion.

On the asking of Court, Mr. Sandeep Kumar, DAG Punjab accepts notice on behalf of respondent-State, who on instructions from SI Narinder Mohan submits that the pistol is yet to be recovered and, therefore, the petitioner does not deserve the concession of anticipatory bail on account of the fact that petitioner's pistol was used in the commissioning of offence and fired, since empty cartridges have been recovered.

On a query put by this Court to the learned State counsel, till date the report of FSL connecting with the recovered empty cartridges with the pistol, which was in the hands of the petitioner is yet to be ascertained and the same can be verified once the pistol is handed over to the police for investigation by the petitioner.

Be that as it may, from the record it is evident that no injury categorically has been attributed to the petitioner to nominate him for an offence under Section 307 of IPC at least at this stage as well as the offences under Arms Act, wherein he was carrying licence as per his version. Though, all these will be examined, once the petitioner joins the investigation and Prosecution Agency moves in that direction.

Considering the statement of the petitioner that he is ready and willing to join the investigation and the candid stand of the State, wherein the FSL report has not been ascertained so far even qua other co-accused person, who have been taken into custody, the petitioner is directed to be released on interim bail in case he

joins the investigation on furnishing personal surety/security bonds to the satisfaction of Arresting Officer/Investigating Officer. The petitioner will also come present as and when called for and cooperate in investigation and shall abide by the conditions as envisaged under Section 438 (2) Cr.P.C.

Adjourned to 14.01.2024.”

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

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 25.10.2023 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.

15.01.2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

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