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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

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**CRM-M-61166-2024 (O&M)
Date of decision: 15.01.2025**

Jaskaran Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Gurnoor Singhj Sethi, Advocate
for the petitioner.

Ms. Swati Batra, Deputy Advocate General, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*), is for grant of anticipatory bail to the petitioner in case arising out of FIR No. 13 dated 14.02.2024, registered under Section 25 of the Arms Act, 1959 and Section 120-B of IPC at Police Station State Special Operations Cell Amritsar, District Intelligence Wing (CID), Amritsar.

2. Brief facts of the case relevant for the disposal of the present petition are that on 14.02.2024, on the basis of secret information, co-accused Amritpal Singh was apprehended by police and recovery of 05 pistols of .32 bore with 25 live cartridges, 01 pistol of .30 bore with 10 live cartridges and 01 country made pistol of 12 bore with 05 live cartridges was effected from him. The petitioner has been nominated in this case on the basis of the disclosure suffered by the said co-accused, wherein he stated that the present petitioner was actively involved with him in smuggling of illegal

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weapons and he had sent him to deliver the said consignment of illegal arms and ammunition to a party at Amritsar. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Amritsar but the same had been dismissed, vide order dated 08.07.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The petitioner was not found at the spot and has been involved in this case on the basis of the disclosure statement made by the co-accused, which is not admissible in law. Investigation qua co-accused has since been completed and challan has been presented. A perusal of the challan report would show that there is nothing on record to connect the petitioner with the subject crime, except the disclosure statement of the co-accused. The petitioner is ready to join the investigation. No recovery is to be effected from him. No useful purpose would be served by detaining him in custody. Therefore, it is urged that the petition deserves to be allowed.

4. Status report has been filed by the respondent-State. It is submitted therein and learned Deputy Advocate General, Punjab has argued that though the petitioner has been nominated in this case on the basis of the disclosure suffered by the co-accused but during the course of investigation, his complicity in the subject crime has been *prima facie* established. The allegations against the petitioner are quite serious as it was on his instructions that the co-accused had gone to deliver the consignment of illegal arms and ammunition to a party at Amritsar. Call details record of the petitioner with the above named co-accused has been obtained and a perusal of the same reveals that they were in constant touch with each other. Custodial interrogation of the

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petitioner is must for proper investigation in the matter as well as for effecting further recovery of illegal weapons, if any. It is, thus, argued that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also perused the material placed on record.

6. The petitioner has been nominated in this case on the basis of the disclosure made by co-accused Amritpal Singh, who was apprehended by the police party on 14.02.2024 and recovery of certain illegal arms and ammunition, as mentioned above, was effected from him. The allegations against the petitioner are that he was actively involved with the co-accused in smuggling of illegal weapons and the co-accused had gone to deliver the aforementioned illegal weapons to a party at Amritsar on the instructions of the petitioner. It has also come on record during investigation that the petitioner was in constant touch with the co-accused on phone during relevant time. The complicity of the petitioner in the commission of subject offence cannot be ruled out at this stage. His custodial interrogation is required for proper investigation in the matter and for effecting recovery of illegal weapons, if any. The well settled proposition of law is that while considering an application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses. The powers under Section 482 of BNSS are to be exercised in extraordinary and sparing circumstances. More so, custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a

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suspect who is well ensconced with a favourable order under Section 482 of BNSS. Many useful information can be disinterred during custodial interrogation. It has also to be seen that an order of anticipatory bail does not operate as inroad in the normal legal procedure of criminal cases by the trial Court. It is also a matter of discretion to grant or not to grant pre-arrest bail. Keeping in view the discussion as made above, I am of the considered opinion that no extraordinary or sparing circumstance entitling the petitioner to seek concession of pre-arrest bail has been made out rather his custodial interrogation is required for thorough investigation in the matter by the police. Accordingly, finding no merit, the petition is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

15.01.2025*Wasim Ansari***(MANISHA BATRA)
JUDGE***Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*