

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-13647-2015

Date of decision: 29.04.2015

Chandi Ram

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

PRESENT: Mr. AK Bura, Advocate for the petitioner.

R.P. NAGRATH, J. (ORAL)

This petition under Section 438 Cr.P.C. has been filed by the petitioner seeking anticipatory bail in FIR No. 111 dated 14.07.2014 registered under Sections 353/186 of the Indian Penal Code (IPC) at Police Station Kalayat, District Kaithal.

Notice of motion.

On the asking of Court, Mr. SK Saini, AAG, Haryana accepts notice on behalf of respondent-State.

Copy of paper-book supplied to learned State counsel.

I have heard learned counsel for the petitioner, the State counsel and perused the paper-book and find that in view of the order proposed to be passed, no further adjournment need to be granted.

The only ground upon which the application for pre-arrest bail was dismissed by the learned Additional Sessions Judge, Kaithal was that both the offences are bailable but indisputably offence under Section 353 IPC has been made non-bailable by way of Amendment Act No. 25

of 2005 w.e.f. 23.06.2006. Therefore, the order dated 20.04.2015 (Annexure P-1) passed by the learned Additional Sessions Judge, Kaithal, thus, cannot be sustained. It must be observed that the Court concerned should have gone through the table of schedule to the Code of Criminal Procedure before making observations that offender under Section 353 IPC is bailable.

In view of the above, the instant petition is disposed of by setting aside the order dated 20.04.2015 (Annexure P-1) with a direction to learned Additional Sessions Judge, Kaithal to decide the matter afresh in accordance with law within a period of two weeks from 06.05.2015. The parties are directed to appear before the Court concerned on the said date.

Till the decision of bail application, the petitioner shall not be arrested.

Copy of this order be sent by FAX to the Court concerned.

April 29, 2015
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(R.P. NAGRATH)
JUDGE