

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CRM-M-16170-2015
Date of decision:27.05.2015**

Ashok Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.Jagjeet Beniwal, Advocate for the petitioner.

Mr.Ashish Yadav, Addl. A.G., Haryana.

RAMESHWAR SINGH MALIK, J. (Oral)

Petitioner seeks bail pending trial in FIR No.372 dated 13.6.2014 registered under Sections 420, 448, 467, 468 and 471 of the Indian Penal Code at Police Station, City Bhiwani, District Bhiwani.

Notice to Advocate General, Haryana, was issued.

Learned counsel for the petitioner submits that petitioner was granted anticipatory bail by this Court in the impugned FIR itself vide order dated 1.8.2014 passed by this Court in CRM-M-24128-2014 and in spite of that fact, he was arrested on 7.4.2015. He had to apply for regular bail before the learned Additional Sessions Judge, Bhiwani, but that was also dismissed vide order dated 28.4.2015. He further submits that the arresting officer has exceeded his jurisdiction, while arresting the petitioner despite the order dated 1.8.2014 passed by this Court. He prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from ASI Ranbir Singh, Economic Cell, Bhiwani, submits that though it

was a matter of record that this Court granted the anticipatory bail to the petitioner vide above-said order dated 1.8.2014 in the present FIR, but the said order was not produced by the petitioner before the arresting officer at the time of his arrest. He further submits that, as a matter of fact, petitioner was arrested on 7.4.2015 in a different FIR, i.e. FIR No.763 dated 7.12.2014 registered under Sections 323, 324, 326, 341 and 506 IPC at Police Station City Bhiwani and later on he was arrested in the present FIR as well, but only because of a bonafide wrong impression as the petitioner did not furnish any copy of the order dated 1.8.2014 passed by this Court. He further submits that the arresting officer would have no enmity with the petitioner and no purpose would have been served by arresting the petitioner in the present FIR as well because he was already under arrest in the above-said FIR No. 763 dated 7.12.2014. He would next contend that although the arresting officer did not proceed on malafide intention but he acted only under the bonafide wrong impression yet he tendered unqualified apology before this Court which deserves to be accepted. He prays for passing of an appropriate order in the instant case.

Having heard the learned counsel for the parties at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that in the totality of facts and circumstances of the case noted above, petitioner has been found entitled for bail pending trial. So far as the issue of allegation against the arresting officer(s) is concerned, there does not seem to be any malafide intention on the part of arresting officer(s).

Keeping in view the peculiar fact situation, unconditional and unqualified

apology tendered in the affidavit dated 26.5.2015 filed in the Court today, is accepted.

In view of the above and without commenting anything further on the merits, lest it should prejudice the rights of either of the parties, the present petition is allowed. Petitioner is directed to be released on bail pending trial on his furnishing adequate bail bonds/surety bonds to the satisfaction of learned trial Court.

Disposed of, accordingly.

27.05.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE