

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

(201)

CRM-M-2690-2016

Decided on: April 01, 2016.

Surinder Singh

.... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Rishabh Gupta, Advocate, for the petitioner.

Ms. Harpreet Kaur Athwal, DAG, Punjab.

Mr. K.S. Cheema, Advocate, for the complainant in main FIR.

M.M.S. BEDI, J (ORAL)

On the instructions of HC Jagdish Lal, learned State counsel informs that the petitioner has joined investigation.

Petition is allowed. Interim order dated 25.01.2016 is hereby made absolute. It is ordered that in case of arrest of petitioner in FIR No.58 dated 29.07.2011, under Section 174-A IPC registered at Police Station Chabbewal, District Hoshiarpur, he will be released on bail to the satisfaction of the arresting officer subject to the conditions that he will not tamper with the evidence or hamper the investigation in any manner and will not commit similar offence of which he is accused of during pendency of the trial.

At this stage, learned counsel for the complainant, in the main case, has intervened to submit that the petitioner has violated the terms of bail in the main FIR.

It is made clear that grant of pre-arrest bail to the petitioner in the present FIR will have any effect upon any other civil and criminal litigation between the parties.

Learned counsel for the complainant has further submitted that the petitioner is a resident of England and as such he is likely to abscond and not attend the proceedings as such a condition should be imposed upon him in exercise of powers under Section 438 (2) (iii) Cr.P.C that he shall not leave India without the previous permission of the Court. He has also submitted that a similar condition had been imposed upon the petitioner when he was granted concession of anticipatory bail in the main FIR No.176 dated 08.12.2003 under Sections 454, 380, 447, 427, 506, 148, 149 IPC.

After hearing learned counsel for the complainant and going through the nature of the allegations in the original FIR and the present FIR, I am of the opinion that the condition under Section 438 (2) (iii) Cr.P.C may be imposed as one of the conditions depending upon the facts and circumstances of each and every case as has been suggested by the language of Section 438 (2) Cr.P.C. So far as FIR under Section 174-A is concerned, this is an FIR independent of the earlier FIR registered against the petitioner. His application for pre-arrest bail had been dismissed in the earlier case but counsel for the petitioner submits that he has later on been granted concession of regular bail.

It is apparent from the record that the petitioner is already on bail in FIR No.176 dated 08.12.2003, under Sections 454, 380, 447, 427, 506, 148, 149 IPC registered at Police Station Mahilapur, District Hoshiarpur vide Annexure P-5.

Learned counsel for the complainant has also disputed that the petitioner has been appearing before the Court.

On asking of the Court, learned State counsel informs that the challan has not yet been presented.

It is observed that the rights of the complainant or the State to seek cancellation of the bail in case of his non-appearance in FIR No.176 dated 08.12.2003, aforementioned, will not be prejudiced, in case the petitioner opts to absent on any date fixed by the Court or the investigating agency requiring the petitioner to appear before it.

(M.M.S. BEDI)
JUDGE

April 01, 2016
harsha