

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

CRM-M-22095-2018 (O&M)

Date of Decision: 01.06.2018

Sandeep Kumar

..Petitioner(s)

Versus

State of Punjab

..Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. M.K. Dhot, Advocate
for the petitioner.

Mr. Pawan Sharda, Sr. DAG, Punjab.

ANITA CHAUDHRY, J.(Oral)

Petitioner is seeking anticipatory bail in FIR No. 126 dated 15.09.2016 registered under Sections 66, 66-A of IT Act, Sections 509, 506, of IPC (Section 67-A of IT Act and Section 201 IPC added later on) registered at Police Station Bhawanigarh, District Sangrur.

Counsel for the petitioner contends that the petitioner had served as a Postman and was known to the complainant as he had delivered parcel containing the ATM card and thereafter they remained in touch for a while. The counsel states that a compromise had also been effected and the police has added Section 67-A of the IT Act and that is the only Section which is non-bailable and the petitioner had been allowed police bail earlier. The counsel says that when a person has been arrested under some Sections and later on another non-bailable section is added then he is entitled to bail. Counsel refers to ***Balbir Singh and another Vs. State of Punjab 2017(4) Law Herald 3488.***

The State counsel opposes the prayer and urges that the petitioner is not a Postman but his wife is in postal service and the fact is that she had never gone to office and her husband was working in her place. The counsel states that the petitioner had delivered a parcel to the complainant and thereafter started sending obscene messages after procuring her mobile phone. The counsel says that they have the photographs and the messages sent by him and custodial interrogation is necessary. The State counsel also states that Section 66-A of the IT Act was declared unconstitutional by the Supreme Court and since the case was covered under Section 67-A of the IT Act, therefore, those Sections were added.

The Whatsapp messages and the obscene photographs which were sent by the petitioner were shown during the course of arguments. The authority cited by the petitioner is not applicable as he was never released on bail by any Court. The police is to recover the phone and custodial interrogation would be necessary. It is not a fit case for grant of anticipatory bail.

The petition is dismissed.

(ANITA CHAUDHRY)
JUDGE

01.06.2018
Sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No