

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

**CRM-M-31076-2018
Date of decision: 15.10.2018**

Ashwani Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. A. K. Khunger, Advocate
for the petitioner.

Mr. M. S. Nagra, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail in FIR No. 07 dated 24.05.2018, under Section 379 IPC, Section 70 of Canal Act and Section 3 of Prevention of Damage of Public Property Act, 1984, registered at Police Station Khui Khera, District Fazilka.

The operative part of the order dated 25.07.2018, vide which the petitioner has been granted interim bail, is reproduced below:

“Counsel for the petitioner has submitted that the co-accused of the petitioner namely Bhajan Lal has already been granted the concession of interim anticipatory bail vide order dated 12.07.2018 passed in CRM-M No.28650 of 2018. It is further submitted that the FIR was registered on the basis of a secret information and even the petitioner was also not named in the FIR. It is further submitted that it will be a debatable issue whether the offence under Section 379 IPC read with Section 3 of the Prevention of Damage of Public Property Act, 1984 is made out in this case or not, in view of the provisions of Section 70

(16) of the India Canal and Drainage Act, 1873. Counsel for the petitioner has further argued that the petitioner had undergone a heart surgery on 22.05.2018 at DMC Heart Institute, Ludhiana and he was discharged on 01.06.2018 and as such, he was not even advised to move out.

Notice of motion for 15.10.2018.”

Learned counsel for the petitioner submits that the petitioner, in pursuance to the order dated 25.07.2018, has already appeared before the SHO/Investigating Officer and has joined the investigation.

Learned counsel for the State, on instructions from ASI Gurminder Singh, has not disputed the factual position and submits that the petitioner has joined the investigation and after investigation, he has been found innocent.

In view of the above, the petition is allowed and the interim bail granted to the petitioner, vide order dated 25.07.2018, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

October 15, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No