

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-50276 of 2018

Date of Decision: 05.12.2018

Mahipal

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Shalender Mohan, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.0254 dated 24.08.2018 under Sections 147/149/323/324/379-A IPC and Sections 325, 326 IPC (added later on) registered at Police Station Narnaund.

I have heard learned counsel for the parties.

It will be relevant to reproduce paragraphs no.1 and 5 of the order dated 03.11.2018 passed by learned Additional Sessions Judge, Hisar hereunder:-

“The applicants-accused have approached this Court for anticipatory bail who have apprehension of their arrest in

the above said FIR Notice was issued to the State. Police report has been filed.

xx xx xx xx xx

5. Police report perused. Reply has been filed by investigating officer. The applicant-accused in this case has been booked for the alleged commission of offences punishable under Sections 323/324/325/326/34 of IPC. Accused are required for custodial interrogation. Keeping in view all these facts and circumstances and seeing the nature of offence and the gravity of the allegations against the applicants-accused, he is not entitled to the concession of bail. Hence, finding no merit, the bail application is hereby dismissed.”

A bare perusal of the order dated 03.11.2018 passed by learned Additional Sessions Judge, Hisar shows that the petitioner had filed an application for grant of regular bail under Section 439 CrPC, however paragraphs no.1 and 5 of the said order does reflects, as if learned Additional Sessions Judge has treated it as a petition for grant of anticipatory bail under Section 438 CrPC.

Therefore, the order dated 03.11.2018 passed by learned Additional Sessions Judge, Hisar is hereby set aside and the case is remanded back to learned Additional Sessions Judge, Hisar with a direction to pass a fresh order while considering it as a petition for regular bail and not for anticipatory bail.

The present petition shall stand disposed of.

December 05, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No