

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

**CRM-M No. 15462 of 2019
Date of Decision:-14.05.2019**

Satnam Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. G.S. Dhindsa, Advocate
for the petitioner.

Mr. Harsimar Singh Sitta, AAG, Punjab.

Mr. Mayur Karkra, Advocate
for the complainant.

MANOJ BAJAJ J.(Oral)

This petition has been filed by the petitioner under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.41 dated 13.3.2019, under Sections 66(E) and 67 of Information Technology Act, 2000, registered at Police Station Passiana, District Patiala. The petitioner apprehend his arrest at the hands of Police.

Learned counsel for the petitioner has invited the attention of the Court to the order dated 09.4.2019 whereby while issuing notice of motion to the respondent-State, the interim protection was extended to the petitioner. The said order reads as under:-

“Counsel for the petitioner contends that alleged post was uploaded on face book on 27.9.2018 and the FIR is registered on 13.3.2019. Counsel for the petitioner refers to the order passed by the learned Additional Sessions Judge, Patiala wherein the contention of the State is recorded to the effect that the applicant-accused kept on using the mobile No.9877440905 till October 2017. It is further pointed out that the petitioner is brother-in-law of Parveen Kumar, who is husband of complainant with whom her matrimonial dispute is pending.

Adjourned to 14.5.2019.

Meanwhile, the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner further contends that in deference to the said order, the petitioner submitted himself before the Police and joined the investigation. According to him, the petitioner cooperated with the Police Authorities during the investigation and furnished requisite bonds to the satisfaction of the Investigating Officer/Arresting Officer.

Learned State counsel who is assisted by SI Mohinderjit Singh as well as learned counsel appearing for the complainant opposed the prayer for grant of relief to the petitioner on the ground that the mobile phone is yet to be recovered.

Learned counsel for the petitioner contends that the alleged

occurrence and use of mobile is of the year 2017, whereas the FIR was registered after a long gap of two years. According to him, the mobile phone is not with him. It is already noticed by this Court that the petitioner happens to be brother-in-law of Parveen Kumar (husband of the complainant) and according to him mere usage of his mobile phone by his brother-in-law would not be enough to establish his *mens rea* in the alleged crime.

Considering above, this Court is of the opinion that the custodial interrogation of the petitioner is not required. Resultantly, the petition is allowed and the interim bail granted by this Court vide order dated 09.4.2019 is made absolute. However, it is made clear that this order shall remain operative till the filing of the final report under Section 173 (2) Cr.P.C.

May 14, 2019
Vijay Asija

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No