

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

CRM-M-50037-2019 (O&M)

Date of decision : 26.11.2019

Anil Yadav

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.S. Bedi, Sr. Advocate with
Mr. Kunal Dawar, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Learned Senior Counsel after arguing at length seeks permission of this Court to withdraw the petition which is not appropriated. Once the Court has applied its mind and spend considerable time, such request from the Senior Counsel is not justified.

Learned Senior Counsel has submitted that learned Additional Session Judge, Gurugram has committed material irregularity by returning a finding, which goes against the petitioner who is the first informant. He has further submitted that such finding could only come after the FIR had been registered and not at the stage when the FIR is yet to be registered.

This Court has considered the submissions. However, finds no substance therein.

Learned Additional Session Judge, Gurugram has decided application for pre-arrest bail by directing Investigating Agency to serve 15 days advance written notice to the applicant to enable him to avail appropriate remedy as per law. While deciding bail application, the observations made by

the Court are not findings. Learned Additional Session Judge, Gurugram on the facts of the case and on the basis of material available on the record has formed an opinion that the dispute between the parties appears to be of civil nature.

Liberty of individual is an important facet of life. Liberty of a citizen cannot be permitted to be scuttled easily. If a citizen, who apprehends arrest in a case, files a petition before the Court, the Court while deciding application has to make certain observations. However, such observations are not findings of the Court.

Next argument of learned counsel that this finding could only be given post registration of the FIR and not before registration of the FIR, also does not have any substance because it is undisputed that the order was passed by the Court after hearing not only the counsel for the State but also counsel for the complainant-petitioner. Application for pre-arrest bail filed by the petitioner after carrying out the entire exercise cannot expected to be just disposed of without making any observations. If the Investigating Agency has any prima facie case, it would be at liberty to establish before the Court as and when subsequent bail application is filed. The Court while deciding subsequent bail, if any filed, would be free to adjudicate upon the same independently without being bound by the observations made in the impugned order.

In view thereof, the present petition is dismissed.

26.11.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No