

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

CRM-M No. 35831 of 2020

Date of Decision: 16.12.2020

Ravi Gupta

-Petitioner

Vs

State of Punjab and another

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Tribhawan Singla, Advocate,
for the petitioner.
Mr. Harpreet S. Multani, A.A.G., Punjab.
Mr. Vineet Sehgal, Advocate,
for the complainant.

RAJ MOHAN SINGH, J. (ORAL)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of anticipatory bail under Section 438 Cr.P.C. in case bearing FIR No.0173 dated 08.10.2020 under Sections 103 and 104 of Trade Marks Act registered at Police Station City South, Moga, District Moga.

On 04.11.2020, following order was passed:-

“The case has been taken up for hearing through video conferencing.

Learned counsel for the petitioner submits that offences under Sections 103/104 of Trade Marks Act, 1999 are bailable in nature. The accused can be punished with imprisonment for

a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees. Classification of the offence i.e. Part 2 of First Schedule of the Code of Criminal Procedure would show that if the offence is punishable for imprisonment with fine only, the same would be non-cognizable and bailable.

*Learned counsel for the petitioner places reliance upon **State Govt. of NCT of Delhi vs Naresh Kumar Garg, 2014(8) RCR (Criminal) 1838.***

The Additional Sessions Judge, Moga vide order dated 20.10.2020 has taken note of aforesaid argument of learned counsel for the accused, but while deciding the application under Section 438 Cr.P.C., the Court has not adverted to the aforesaid ground in its order dated 27.10.2020.

Notice of motion for 16.12.2020.

At this stage, Mr. Vineet Sehgal, Advocate appears on behalf of respondent No.2 and seeks time to address arguments on merits.

Till the next date of hearing, arrest of the petitioner shall remain stayed.”

Learned counsel for the petitioner in order to substantiate his contentions recorded on 04.11.2020 also refers to CRM-M No.10611 of 2017 titled 'Amrik Ram vs State of Punjab' decided on 30.03.2017.

Per contra, learned counsel for the complainant relies upon CRM-M No.32751 of 2019 titled 'Govind Prasad Vs. State of Bihar' decided on 14.08.2019.

In view of above, it would be appropriate to direct the petitioner to appear before the SHO/Investigating Officer to join investigation on **22.12.2020** and in the event of his arrest, he shall be released on anticipatory bail on his furnishing bail bonds to the satisfaction of SHO/Investigating Agency subject to the following conditions as envisaged under Section 438(2) Cr.P.C:-

- i) that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required;
 - ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
 - iii) that the petitioner shall not leave the country, without prior permission of the Court and shall surrender his passport, if any.
- Petition stands disposed of.

16.12.2020
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No