

CRM-M-6877-2021

Date of Decision: 18.03.2021

Gurwinder Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Sarabjit Singh, Advocate, for the petitioner.

Mr. H. S. Multani, AAG, Punjab.

AMOL RATTAN SINGH, J. (ORAL)

On 15.02.2021, the following order had been passed:-

Case heard by video conference.

“By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon FIR No.69, dated 07.09.2020, having been registered at Police Station Dhilwan, District Kapurthala,, alleging therein the commission of an offence punishable under Section 379-B(2) of the IPC.

Learned counsel for the petitioner submits that the petitioner has been named as an accused in the FIR only on the basis of a disclosure statement allegedly made by a co-accused, Jorawar Singh, who also named him as an accused in the context of another FIR registered under the same provision (i.e. Section 379-B IPC) and that obviously the said disclosure statement (if made), has been made in police custody.

Learned counsel for the petitioner further submits that as regards the disclosure statement made in the context of the other FIR, the petitioner was admitted to 'anticipatory bail' by the learned Additional Sessions Judge, Amritsar, on 25.11.2020.

Notice of motion.

On the asking of the Court, Mr. Ramdeep Partap Singh, DAG, Punjab, accepts notice on behalf of the respondent State.

A copy of the petition be e-mailed to him today itself by learned counsel for the petitioner.

As regards the factual position given hereinabove, learned State counsel does not deny the same on instructions from ASI Gurdev Singh.

That being so, the petitioner is directed to join investigation within 5 days, and if, upon him so joining, he is sought to be arrested, he shall be released on interim bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Duty Magistrate, till the next date of hearing.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilqa Magistrate immediately, who would then summon the arresting officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 18.03.2021.

A gazetted officer is directed to file a reply to the petition.”

Today, learned State counsel (on instructions) submits that the petitioner has joined the investigation and his custodial interrogation is not required, though of course in the reply filed in court today by the DSP, it has been prayed that the petition be dismissed, with it further stated that the supplementary 'challan' would be submitted qua the petitioner also, to the competent court.

With the investigating officer not requiring the custodial interrogation of the petitioner, the petition has in fact been rendered infructuous and is disposed of as such.

However, if the petitioners' custodial interrogation is required at any stage hereinafter, in the context of the FIR in question, he would be given 7 days notice before arrest, duly shown to be served upon them.

Naturally, if the complainant is aggrieved in any manner, of lack of proper investigation, he would be always at liberty to avail of his remedy as per law.

March 18, 2021

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Whether speaking/reasoned
Whether Reportable

(AMOL RATTAN SINGH)

JUDGE

Yes
No.