

201-3 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2177-2020

Date of Decision: 17.02.2022

OM PARKASH

... PETITIONER

V/S

STATE OF PUNJAB AND ANR.

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Aman Dhir, Advocate for the petitioner.

Ms. Ruchika Sabherwal, AAG Punjab.

Ms. Renu Aurora, Advocate and
Mr. Sushant Kareer, Advocate for the complainant.

*(The case has been taken up through video conferencing on
account of Covid-19 pandemic)*

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VIVEK PURI, J. (ORAL)

Petitioner is seeking anticipatory bail in complaint No. COMI-166/2015, dated 06.05.2015 titled as Preeti Vs. Om Parkash & others filed under Sections 376-D, 323, 324, 328 read with Section 34 IPC, pending in the court of learned JMIC, Jalandhar.

On 20.01.2020, the following order was passed:

“Heard.

It is contended that the allegations as set out in the complaint were already investigated in the FIR that had been registered by the complainant-prosecutrix on the same allegations. After due investigation, cancellation report was filed. It is further submitted that in fact, a Kalandra has also been filed against the complainant and charges have been framed.

Notice of motion for 07.05.2020.

Meanwhile, the petitioners are directed to join the investigation within a period of one week and on their doing so, the petitioners be released on interim bail subject to their furnishing personal bonds and surety to

the satisfaction of Arresting/Investigating Officer. However, the petitioners shall continue to join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

*To be heard along with CRM-M-1450-2020.
A photocopy of this order be placed on the file of connected case.”*

Thereafter, on 22.01.2020, the order was modified and the following order was passed:

“This is an application that has been filed seeking modification of order dated 20.01.2020 wherein, this court inadvertently has directed the petitioners in CRM-M-2177 of 2020 and CRM-M-2113 of 2020 to join the investigation and furnish personal bond to the satisfaction of the Investigating Officer.

Counsel for the applicant-petitioner would contend that in fact, the petitioner is summoned to face trial in a criminal complaint and he be permitted to put an appearance before the trial court, in terms of the order dated 15.01.2020 passed in CRM-M-1450 of 2020 titled as “Rattan Lal vs.State of Punjab and another”.

In view of the above, the inadvertent mistake is rectified.

The order dated 20.01.2020 is modified to the extent that the arrest of the petitioner is stayed for a period of two weeks. The petitioner is directed to join the proceedings before the trial court within the period of two weeks and on his doing so, the trial court is directed to release him on interim bail subject to his furnishing bail bond and surety bonds to its satisfaction. It is made clear in case, the petitioner herein fails to join the proceedings within the stipulated period, any interim protection granted to the petitioner shall stand automatically vacated.

This order shall be read in both the aforesaid cases i.e. CRMM- 2177 of 2020 as well as CRM-M-2113 of 2020”.

Learned counsel for the petitioner contends that in pursuance to the interim directions issued by this Court, the petitioner has joined the proceedings before the trial Court and has been released on interim bail. Furthermore on the basis of same allegations at the earlier instance an FIR bearing No.52 dated 20.07.2014 under Section 376-D was registered at Police Station, Women Cell, Jalandhar, the same was cancelled and the

proceedings under Section 182 IPC have been initiated against the respondent No.2.

On the instructions from ASI Shishpal Singh has not assailed the aforesaid factual aspects.

Learned counsels for the complainant have joined the proceedings on behalf of respondent No.2 and have opposed the bail application on the score that there are serious allegations of commission of offence under Section 376-B of IPC and even when the FIR was registered, the petitioners have not sought pre-arrest bail.

Be that as it may, the occurrence relates back to 19.07.2014, FIR which was registered on the basis of same allegations has been cancelled, the proceedings under Section 182 IPC have been initiated against the complainant and furthermore, the petitioner has already surrendered and released on interim bail in pursuance of the interim directions issued by this Court. Merely because the petitioner had not sought pre-arrest bail when the FIR was registered and was subsequently cancelled cannot be termed to be a circumstance to deny the bail to the petitioners, at a subsequent stage in the proceedings which have been initiated on the basis of the complaint by respondent No.2. It is a complaint case and the custodial interrogation of the petitioner is not required.

As such sufficient exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner. The order dated 20.01.2020 (as modified vide order dated 22.01.2020), vide which the petitioner was granted interim bail, is made absolute.

However, the petitioner is directed to furnish fresh bail bonds
in the trial Court within a period of one month from today.

The petition stands allowed.

(VIVEK PURI)
JUDGE

17.02.2022
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No