

CRM-M-3241-2022
Date of decision-08.03.2022

Babu Kanojia

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJPresent: Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Vishal Garg Narwana, Advocate for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

Mr. Anuj Baliyan, Advocate for the complainant

MANOJ BAJAJ, J. (Oral)

Petitioner has approached this Court under Section 438 Code of Criminal Procedure to seek anticipatory bail in case FIR No.4 dated 02.01.2022 under Sections 148, 149, 323, 447, 448, 452 and 506 of Indian Penal Code, 1860 registered at Police Station Ambala Cantt., District Ambala, who apprehends his arrest at the hands of Police.

On 28.01.2022, this Court had passed the following order:-

“Taken up through video conferencing.

This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.4 dated 02.01.2022 under Sections 148, 149, 323, 447, 448, 452 and 506 IPC registered at Police Station Ambala Cantt., District Ambala.

Learned counsel for the petitioner would contend

that there is no overt act attributed to the petitioner in the FIR nor has any injury been attributed to the petitioner. Learned counsel has contended that the petitioner has been falsely implicated in the present case and the same is primarily a civil dispute between the mother of Gaurav Jindal, one of the co-accused, and the complainant. Learned counsel for the petitioner would further contend that Gaurav Jindal, one of the co-accused, has since been granted interim protection by this Court in CRM-M-2168-2022 vide order dated 20.01.2022.

Notice of motion.

On the asking of the Court, Ms. Ambika Sood, Addl. AG Haryana has joined the session through video conferencing and accepts notice on behalf of the State. She, on instructions from Sub Inspector Rajinder Kumar, has stated that the co-accused Gaurav Jindal, who has been granted the interim protection by this Court, is also not co-operating and did not join investigation when he was called.

List on 08.03.2022.

Meanwhile, the petitioner is directed to join investigation on 31.01.2022 at 11:00 AM and thereafter, as and when called. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing adequate surety and personal bonds to the satisfaction of the Arresting Officer. The petitioner shall abide by all the terms and conditions as specified in Section 438(2) of the Code of Criminal Procedure, 1973.”

Learned Senior counsel has stated that pursuant to the above direction, the petitioner has joined the investigation. According to him, the

mother of co-accused Gaurav Jindal is the owner of the property in question and though the complainant had filed a suit for injunction in the year 2018, but no *ad interim* injunction was granted till 06.10.2021, and when the counsel for the defendant (petitioner's mother) failed to appear, ex-parte injunction was granted. He submits that it was at that stage, the complainant had given the complaint for registration of this case, and forcibly attempted to take possession of the property in question.

Learned State counsel assisted by SI Rajender Kumar does not dispute this fact that the petitioner has joined the investigation, but opposes the prayer on the ground that the vehicle used in the crime for alleged commission of trespass is yet to be recovered, whereas learned counsel for the complainant has argued that the house in question is in possession of the complainant being a licensee and as the property in question was sold to the petitioner's mother subsequently, therefore, she (complainant) was facing forcible dispossession. It is not disputed by him that the civil dispute is also pending before the Civil Court.

Considering above background, nature of offence as well as dispute, this Court, without expressing any opinion on the merits of the case, does not find it to be a fit case for custodial interrogation of the petitioner.

Consequently, the petition is allowed and the interim order dated 28.01.2022 is made absolute.

(MANOJ BAJAJ)
JUDGE

08.03.2022

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Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No