

215 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33714-2022
Date of Decision: 30.11.2022

JOGINDER YADAV ... PETITIONER
V/S
STATE OF UT CHANDIGARH ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. P.S.Ahluwalia, Advocate for the petitioner.

Mr. D.S.Brar, Addl. P.P. U.T. Chandigarh.

* * *

VIVEK PURI, J. (ORAL)

On 27.09.2022 following order was passed:

“The petitioner is seeking anticipatory bail in case bearing FIR No.95 dated 08.07.2022 under Sections 354 and 354-A IPC registered at Police Station Manimajra, Chandigarh.

Briefly, the allegations against the petitioner are to the effect that while he was working as Ward Servant, he had inappropriately touched and outraged the modesty of female patient.

Learned counsel for the petitioner submits that the offence under section 354-A IPC is bailable and the offence under Section 354 IPC is nonbailable. Both the offences are punishable with imprisonment for a period of less than seven years. The occurrence took place on 23.05.2022 and FIR has been registered on 08.07.2022. A complaint was submitted by the guardian of the victim on the following day of occurrence and internal inquiry has been conducted. The petitioner has been placed under suspension and he is in service since the year 1999. There is nothing to suggest that he had committed similar act at any earlier occasion.

In the instant case, no notice under Section 41-A Cr.P.C has been issued by the Investigating Officer to the petitioner as required in view of the law laid down in **Arnesh Kumar Vs. State of Bihar & Anr, 2014 (3) RCR (Criminal) 527**. It has been further stated that in the subsequent decision rendered in **Satender Kumar Antil Vs. Central Bureau of Investigation & Anr., SLP (Crl.) No.5191 of 2021**, non compliance of provisions of Sections 41 and 41-A of Cr.P.C., would also entitled the accused for grant of bail.

On a query, learned Additional P.P. for the U.T.Chandigarh, submits that no reasons for immediate arrest of the petitioner have been reduced in writing in the case diary and even no notice under Section 41-A Cr.P.C. has been issued to the petitioner.

Adjourned to 30.11.2022.

In the meanwhile, the petitioner is directed to join investigation and in the event of his arrest, he shall be released on interim bail to the satisfaction of the Investigating Officer/Arresting Officer subject to the conditions as envisaged under Section 438 (2) of Code of Criminal Procedure.”

Learned counsel for the petitioner contends that the petitioner has joined the investigation in pursuance of the interim directions issued by this Court.

Learned State counsel submits that the petitioner has joined the investigation and his custodial interrogation is not required.

Considering above, the petition is allowed and the interim bail granted by this Court vide order dated 27.09.2022 is made absolute.

The petition stands allowed.

30.11.2022

Janki

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No