

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

CRM-M-45608-2022

Date of Decision: 30.9.2022

Irfan

... Petitioner

Versus

State of Haryana

... Respondent

CORAM:-HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr.Sutikshan Sharma, Advocate for the petitioner

Mr. Tanuj Sharma, AAG, Haryana

...

The petitioner has approached this Court by filing this petition under Section 438 of the Cr.P.C. for grant of anticipatory bail to him in FIR No.327 dated 1.9.2022 under Sections 379-A and 34 of the IPC registered at Police Station Bilaspur, District Yamuna Nagar.

Learned counsel for the petitioner, *inter alia*, contends that present case has been lodged falsely against the petitioner. The petitioner is sought to be implicated on the basis of disclosure statement made by some third person as per the secret information received by the police. Learned counsel further submits that nothing is to be recovered from the petitioner and thus no custodial interrogation is required.

On the contrary, learned counsel for the State submits the allegations against the petitioner are serious in nature. The complainant Sarupi Devi was returning to her house after taking grass, on the way three unknown persons on a motor cycle came and they snatched her both ear-rings and fled away on the motor cycle. Learned counsel submits that during investigation, on 2.9.2022 on the basis of secret information co-accused Majeet Kumar and Mohd. Jabar were arrested and stolen ear-rings were recovered from both of them and they named

the petitioner in their disclosure statements. Learned counsel submits that the petitioner was riding the motor-cycle and therefore, his custodial interrogation is required.

Having heard learned counsel for the parties, I am of the view that the offences alleged against the petitioner are very serious in nature. The allegations against the petitioner alongwith other co-accused are of fleeing by motor-cycle, after snatching of earrings from a woman going on the way. There is specific role attributed to the petitioner that he was allegedly riding the motor-cycle. Investigation is still going on and, therefore, custodial interrogation of the petitioner is necessary for finding out the modus operandi of commission of offence. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. This view of mine finds support from the judgment of Hon'ble Supreme Court in **Madhya Pradesh vs. Pradeep Sharma, (2014) 2 SCC 171.**

In view of the above, the present petition being devoid of any merit is dismissed. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

(ASHOK KUMAR VERMA)
JUDGE

30.9.2022

MFK

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No