

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

208

CRM-M-8-2023

Date of Decision: 03.02.2023

Rahul

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Sunny Kadiyan, Advocate for the petitioner

Ms. Dimple Jain, AAG, Haryana
(assisted by ASI Rajwanti)

JAGMOHAN BANSAL, J. (ORAL)

Status report by way of affidavit dated 31.01.2023 of Manoj Kumar, Assistant Commissioner of Police, Udyog, Gurugram filed by respondent-State is taken on record. Registry is directed to tag the same at appropriate place.

On 04.01.2023, the following order was passed:-

“Through instant petition under Section 438 of Code of Criminal Code, 1973, the petitioner is seeking anticipatory bail in FIR No.398 dated 04.11. 2022 registered at Police Station Sector-9A, District Gurugram, Haryana, under Sections 120-B, 376(2)(n) and Section 380 of Indian Penal Code, 1860.

Learned counsel for the petitioner inter alia contends that petitioner is ready and willing to marry the complainant. The complainant has furnished affidavit dated 05.12.2022 disclosing that she was living with petitioner with her own consent and wants to marry. She has further deposed that her divorce petition is pending in Bagpat, U.P. and she will marry after getting divorce.

The complainant is not minor and she had developed relations with the petitioner at her own consent. The complainant had given birth to a child from the relationship with the petitioner and at present she is pregnant. The petitioner is not involved in any other offence. The petitioner is permanent resident of Devi Lal Colony, Gurugram and staying with his family members. The petitioner is ready to join investigation and face trial. There is no possibility of flee from justice. The arrest would cause irreparable loss, mental agony, embarrassment and humiliation to petitioner as well entire family. Case of the petitioner is squarely covered by decision of Hon'ble Supreme Court in Ansar Mohammad Vs. The State of Rajasthan.

Notice of motion returnable for 03.02.2023.

Ms. Dimple Jain, AAG, Haryana, who is present in court on advance notice, seeks time to file status report.

Meantime, keeping in mind law enunciated by Hon'ble Supreme Court in Thana Singh v. Central Bureau of Narcotics, (2013) 2 SCC 590, Arnab Manoranjan Goswami V. State of Maharashtra, (2021) 2 SCC 427, Satender Kumar Antil V. CBI (2022) 10 SCC 51, Siddharam Satlingappa Mhetre V. State of Maharashtra & Ors., 2010 SCC OnLine SC 1375, Shri Gurbaksh Singh Sibbia V. State of Punjab (1980) 2 Supreme Court Cases 565, Arnesh Kumar V. State of Bihar (2014) 8 SCC 273, at the first instance, the petitioner is directed to appear before investigation officer on 12.01.2023 and thereafter as directed by IO. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bonds to the satisfaction of investigating/arresting officer. The petitioner shall co-operate the investigating officer.

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

Learned State counsel, on instructions from ASI Rajwanti, submits that petitioner has already joined investigation and no custodial interrogation is required.

In view of the above, the petition is allowed and the interim bail granted to the petitioner vide order dated 04.01.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C

If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

03.02.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>