

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215 (II)

CRM-M-12-2023 (O&M)
Date of decision: 28.03.2023

ISHWAR

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sant Lal Barwala, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG Haryana.

AMAN CHAUDHARY. J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in FIR No. 756 dated 01.12.2022 under Sections 306, 406 and 34 of the Indian Penal Code, registered at Police Station Sadar, Bhiwani, District Bhiwani, Haryana.

On 03.01.2023, this Court had passed the following order:-

“The instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 praying for grant of anticipatory bail to the petitioner in case bearing FIR No. 756 dated 01.12.2022 under Sections 306 and 406/34 of the Indian Penal Code, registered at Police Station Sadar, Bhiwani, District Bhiwani, Haryana.

Learned counsel appearing on behalf of the petitioner, inter alia, contends that the money dispute has now been converted into a case under Section 306 of the IPC without appreciating that the basic ingredients for commission of offence i.e. abetment as stipulated under Section 107 of the IPC, are not made out. It is contended that there are no details given in respect to the alleged transaction and/or the circumstances under which the alleged money was stated to

have been forwarded. He contends that initiation of criminal proceedings is only a process to seek the alleged recovery of the money, the delivery whereof is also a subject matter of dispute. He further contends that the petitioner is ready and willing to join the investigation as and when required to do so and does not suffer from any criminal antecedents.

Notice of motion.

Mr. Paramjeet Phor, Advocate, enters appearance and accepts notice. He prays for some time to seek instructions.

In the meantime, the petitioner is directed to join investigation as and when so required by the Investigating Agency. In the event of petitioner joining investigation, he shall be admitted to interim bail by the arresting officer/investigating officer on furnishing of bail bonds by him to the satisfaction of the arresting officer/investigating officer. The petitioner shall also abide by the conditions as specified under Section 438 (2) Cr.P.C.

List on 28.03.2023, for further consideration.”

Learned counsel for the petitioner submits that in pursuance of order dated 03.01.2023, of this Court, the petitioner has not only joined investigation but has also fully cooperated with the investigating agency. He further submits that in case the investigating agency requires the petitioner to appear, he shall make himself available without demur.

Learned State counsel on instructions from SI Nikesh Kumar affirms the factum of joining the investigation by the petitioner and cooperating with the investigation agency. He also submits that at this stage, the petitioner is not required for further custodial interrogation.

In view of the above and without expressing any opinion on the merits of the case, anticipatory bail petition filed by the petitioner is allowed and the order dated 03.01.2023 granting interim bail to him, is hereby made absolute, subject to compliance of conditions as specified under Section 438(2) Cr. P.C

However, it is made clear that if the petitioner fails to join and cooperate with the investigation agency as and when required, the State would be

at liberty to move an application for cancellation of the present anticipatory bail granted to him.

(AMAN CHAUDHARY)
JUDGE

March 28, 2023

M.Kamra

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