

CRM-M-1274-2023

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222+1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1274-2023

Date of Decision:24.02.2023

LAL HUSSAIN @ BANA

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Arnav Sood, Advocate
for the petitioner.

Mr. Amish Sharma, AAG, Punjab
assisted by ASI Bikramjit Singh.

JAGMOHAN BANSAL, J. (Oral)

On 11.01.2023 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.0163 dated 14.09.2021, under Sections 363, 366, 506 and 34 of IPC and Section 376 of IPC added later on, registered at Police Station Hariana, District Hoshiarpur.

Learned counsel for the petitioner inter alia contends that no offence under Section 376 IPC is made out against the petitioner. The victim was not minor, thus, offence under Sections 363, 366 IPC is also not made out. The petitioner is uncle of co-accused of Saifu and it is highly improbable that petitioner would ask his nephew to commit rape especially upon a girl to whom he was engaged. This Court has granted concession of interim bail to co-accused Fakir Deen vide order dated 6.1.2023 passed in CRM-M- 230 of 2023. The petitioner is ready to join investigation and face proceedings. 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.

Notice of motion returnable for 24.02.2023.

On the asking of Cour, Mr. Amish Sharma, AAG, Punjab, who is present in court on advance notice, accerpts notice on behalf of State-respondent.

*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 submits that petitioner has already joined investigation and no custodial interrogation is required, however, he submits that petitioner may be directed to be present before the Investigating Officer for medical examination.

In view of the above, the petition is allowed and the

interim protection granted to the petitioner vide order dated 11.01.2023 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.

The petitioner shall appear before the Investigating Officer for medical examination as and when called through notice in writing under Section 160 Cr.P.C.

(JAGMOHAN BANSAL)
JUDGE

24.02.2023

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