

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

215

CRM-M-2545-2023

Date of Decision: 17.02.2023

Gaurav Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Dheeraj Kumar, Advocate for
Mr. Tanmoy Gupta, Advocate for the petitioner
Mr. Gurbir S. Dhillon, AAG, Haryana

JAGMOHAN BANSAL, J. (ORAL)

Status report by way of affidavit of Vijay Pal, Deputy Superintendent of Police, District Palwal filed by respondent-State is taken on record. Registry is directed to tag the same at appropriate place.

On 18.01.2023 (sic 18.01.2022), 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. 1128 dated 1.12.2022 under Sections 354-A, 506, 34 IPC registered at Police Station Camp Palwal, District Palwal, Haryana.

Learned counsel for the petitioner inter alia contends that victim is real sister of the petitioner and she has lodged FIR against the petitioner just because of property dispute between the parties. The victim has lodged FIR against petitioner as well as two other lady members of the family. The co-accused-Savita has

already been granted concession of anticipatory bail vide order dated 9.12.2022 passed by Additional Sessions Judge, Palwal. The co-accused was claimed to be the main accused. The case of the petitioner in any case is not covered by clause (i) to (iii) of Section 354 of IPC and if all the allegations of the victim are considered to be gospel truth, the case is covered by Section 354(iv) IPC and for the said offence maximum sentence is one year. The petitioner is not involved in any other offence. 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.

Notice of motion returnable for 17.2.2023.

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 25.01.2023 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.

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.”

Learned State counsel submits that the 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 18.01.2023 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

17.02.2023

Mohit Kumar

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*