

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

(210)

CRM-M-5474-2023

Date of Decision : July 20, 2023

Mohammad Shaukat**.. Petitioner****Versus****State of Haryana****.. Respondent****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Vinay Kumar Pandey, Advocate, for the petitioner.

Mr. Surender Singh, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. The petitioner is seeking anticipatory bail in FIR No. 83 dated 16.02.2022 registered under Sections 188/406/409/201 IPC, 1860 (Section 120-B IPC added later on), at Police Station Sadar Nuh, District Nuh.
2. Learned counsel for the petitioner contends that the petitioner has joined investigation in terms of order passed by the Coordinate Bench of this Court dated 20.03.2023. Order dated 20.03.2023 is as under:-

“Petitioner has filed the present petition under Section 438 Cr.PC seeking anticipatory bail in case FIR No.83 dated 16.02.2022 under Sections 188/406/409/201 IPC, 1860 (Section 120-B IPC added later on), registered at Police Station Sadar Nuh, District Nuh (Annexure P-1).

In terms of the order dated 16.02.2023, the learned State counsel has filed the status report dated 18.03.2023, which is taken on record. Copy thereof has been supplied to the counsel for the petitioner.

The brief facts of the case are that the complainant

BDPO, Nuh has got recorded this case FIR against the petitioner by way of moving a complaint vide letter No.4165 dated 14.01.2022 and letter No.4458 dated 13.02.2022 and subsequently letter No.4487 dated 15.02.2022 to the effect that the petitioner being Ex. Sarpanch of village Panchayat Ghasera had not deposited the entire Panchayat record with BDPO, Nuh. Hence, the present FIR was requested to be registered. The record was stated to be the various log books, cash books, master role etc. Hence, the present FIR under Sections 188/406/409 of IPC has been registered on 16.02.2022.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He was not named in the FIR and has been nominated on the basis of disclosure statement of co-accused Ashraf Hussain, which is not admissible in law as his statement cannot be believed to be true as earlier also the co-accused Ashraf Hussain has got registered FIR No.49 dated 22.02.2021 under Section 379 IPC, Police Station Punhana, for theft of Panchayat record along with the motorcycle in question against the petitioner and the said FIR was found to be false during the investigation by the police. He further submits that there is no evidence available with the Investigating Agency to even remotely suggest that the present petitioner is beneficiary of the record in question which has been destroyed for which the present FIR has been registered and motorcycle which is said to be belonged to the present petitioner has already been recovered and even otherwise the same is not owned by the petitioner after 03.02.2021 which is clear from the sale agreement dated 03.02.2021 (Annexure P-3).

He further submits that although the petitioner is involved in another case bearing FIR No.589 dated 06.11.2022 under Sections 147/148/149/188/285/323/365/379-B/427/425/506 of IPC, 1860 and Section 25 of the Arms Act, 1959 registered at Police Station Sadar Nuh, however, he submits that as many as 72 persons have been made accused

and the petitioner has never been called by the police in the said case. The co-accused Ashraf Hussain has already been granted concession of regular bail by the learned Additional & Sessions Judge, Nuh vide order dated 28.12.2022. He further submits that the petitioner is ready to join the investigation.

Per contra, learned State counsel submits that in view of the allegations levelled against the petitioner, he is not entitled for grant of anticipatory bail.

Adjourned to 20.07.2023.

In the meantime, petitioner shall join investigation before the Investigating Agency/Officer. In the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. He shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:-

- 1) That the petitioner shall make himself available for interrogation by a police officer as and when required to do so.*
- 2) That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.*
- 3) That the petitioner shall not leave India without prior permission of the court. ”*

3. Learned State counsel, on instructions from ASI Rajesh, states that in terms of the order dated 20.03.2023 of the Coordinate Bench of this Court reproduced hereinbefore, the petitioner has joined the investigation and no further interrogation of the petitioner is required at this stage.

4. Learned counsel for the petitioner undertakes that petitioner will join investigation and also cooperate with the investigating agency in case he is required for the same in future as well.

5. In view of the above, the order dated 20.03.2023 granting interim bail to the petitioner is made absolute.

6. However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join and cooperate in the investigation as and when called upon to do so.

7. In case at any given point of time hereinafter, it is felt by the investigating agency that petitioner is required for the investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

8. The present petition stands allowed.

July 20, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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