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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-5611-2023 (O&M)
Date of decision : 04.09.2023

Sanjay Kumar Gupta ... Petitioner(s)

Versus

State of U.T. Chandigarh ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gautam Dutt, Advocate for
Mr. Ribhav Singla, Advocate for the petitioner.

Mr. A.M. Punchhi, PP for UT Chandigarh.

ALKA SARIN, J. (ORAL)

1. This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.80 dated 21.12.2022 under Section 376 Indian Penal Code, 1860 (IPC) registered at Police Station Sector 49, Chandigarh .
2. On 07.02.2023 the following order was passed :

“Prayer in the present petition is for grant of anticipatory bail to the petitioner in case FIR No.80 dated 21.12.2022 under Section 376 IPC registered at Police Station Sector 49, Chandigarh.
Learned counsel for the petitioner submits that the entire FIR is vague and evasive and in fact, the relationship between the petitioner and the prosecutrix was at the best consensual. He further relies upon the

details of whatsapp chat annexed with petition as Annexure P-1 and also the complaint made by the petitioner to the Senior Superintendent of Police, Panchkula. Learned counsel for the petitioner further submits that in fact the matter was investigated and after completion of the inquiry, which exonerated the petitioner, the same was sent to the DDA (Legal), whose report is not on record.

Notice of motion.

At the asking of the Court, Mr.A.M.Punchhi, PP for U.T.Chandigarh, accepts notice on behalf of U.T.Chandigarh. A complete copy of paper book be supplied to him during the course of the day.

Mr.Arjun Dosanj, Advocate with Mr.Rahil Mahajan, Advocate, has put in appearance on behalf of the complainant and filed his vakalatnama, which is taken on record.

Learned counsel appearing on behalf of the U.T.Chandigarh has fairly stated that the DDA(Legal) reported that no case is made out. However, subsequently, the SSP, Chandigarh directed the further investigation and the FIR was lodged. He has further vehemently opposed the grant of bail and has submitted that the petitioner is required for custodial interrogation to bring out the truth. However, on a specific query as to what was the reason that the SSP Chandigarh disagreed with the report of DDA(Legal) and how the ingredients of Section 376 are made, he sought time to file a comprehensive reply.

In view of the above, the matter stands adjourned to 13.03.2023.

In the meanwhile, in the event of arrest, the petitioner be

released on interim bail subject to furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer. However, the petitioner shall join investigation on 10.02.2023 at 10:00AM, with whatever record he is having and co-operate with the investigating agency, even thereafter and shall abide by the conditions as envisaged under Section 438 (2) Cr.P.C.

Learned counsel appearing on behalf of the U.T.Chandigarh is also directed to file status report on or before the next date of hearing.

It is made clear that the interim arrangement made herein shall not be construed for deciding the petition on merits.”

3. Learned counsel for the petitioner would contend that pursuant to the said order, the petitioner has joined investigation and has fully cooperated.

4. Learned PP for U.T. Chandigarh, on instructions from SHO Jasbir Singh, has stated that the petitioner has since joined investigation and has fully cooperated and that he is no longer required for further custodial interrogation as of now. Learned counsel has further pointed out that infact no evidence was found in the present case and on the said basis, a cancellation report has also been prepared.

5. In view of the above, the order dated 07.02.2023 is made absolute. The petitioner shall, however, join investigation as and when called. The petitioner shall also abide by all the terms and conditions as specified under Section 438(2) of the Code of Criminal Procedure, 1973.

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6. Disposed off accordingly. Pending applications, if any, also stand disposed off.

04.09.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO