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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-8231-2023 (O&M)
Date of decision : 24.07.2023

Rishabh ... Petitioner(s)

Versus

Union Territory of Chandigarh ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Shivam Grover, Advocate, Mr. Akshay Mittal, Advocate
and Mr. Ivan S. Khosa, Advocate for the petitioner.

Mr. P.S. Paul, Addl. 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.9 dated 24.01.2023 registered under Sections 452, 354, 323, 506 and 34 of Indian Penal Code, 1860 at Police Station Industrial Area, Chandigarh,.
2. On 25.05.2023 the following order was passed :

“1. On 16.02.2023, 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.9 dated 24.01.2023, registered at Police Station Industrial Area, Chandigarh, under Sections 452, 354, 323, 506 and 34 of Indian Penal Code, 1860.

Learned counsel for the petitioner inter alia

contends that there is enmity between the petitioner and husband of the prosecutrix and on account of previous enmity, she has lodged FIR against the petitioner. FIR has been registered after 04 days from the alleged incident. On the date of alleged incident, DDR was lodged wherein the petitioner was not named and the petitioner was specifically named in the FIR which came to be registered after 04 days. The petitioner is permanent resident of Chandigarh and staying with his family members. 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. Case of the petitioner is squarely covered by decision of Hon'ble Supreme Court in Ansar Mohammad Vs. The State of Rajasthan.

Notice of motion.

Mr. P.S.Paul, Addl. PP for UT Chandigarh accepts notice on behalf of respondent and seeks time to file status report.

2. Additional Affidavit dated 25.05.2023 of Ms. Palak Goel, Deputy Superintendent of Police (East), U.T. Chandigarh, is taken on record. Registry is directed to tag the same at appropriate place.

3. The State filed status report disclosing that no CCTV camera is installed in the building where alleged incident has taken place.

4. The petitioner placed on record photographs disclosing that CCTV camera is already installed at

ground floor whereas State in its reply has stated that there is no CCTV camera.

5. On the asking of the Court, State has filed additional affidavit confirming that alleged incident took place on 2nd floor of the building whereas camera is installed at ground floor. Though reply is silent yet learned State counsel during the course of hearing submitted that camera installed at ground floor was not in working condition and now it is in the working condition.

*6. Having considered contents of the FIR, role attributed to the petitioner, gravity of offence, sentence prescribed for commission of alleged offence, arguments put forth by the petitioner and 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, this Court is of the *prima facie* opinion that the petitioner deserves protection from arrest. Accordingly, at the first instance, the petitioner is directed to appear before investigating officer on 31.05.2023 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.*

7. 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.

8. Adjourned to 24.07.2023.

9. 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.”

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 Addl. PP for UT Chandigarh, on instructions from SI Kuldeep 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.

5. In view of the above, the order dated 25.05.2023 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.

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

24.07.2023

Yogesh Sharma

(ALKA SARIN)
JUDGE

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