

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

209

CRM-M-10239-2023

Date of Decision: 10.04.2023

Pooja and Another

...Petitioners

Versus

State of Punjab and Another

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Vikas Kumar Gupta, Advocate for the petitioners

Mr. Amish Sharma, AAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

On 27.02.2023, the following order was passed:-

“Through instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioners are seeking anticipatory bail in FIR No. 246 dated 22.12.2022, under Sections 323, 324, 341, 354, 506 and 34 IPC, registered at Police Station Phase-I, District Mohali.

Learned counsel for the petitioners inter alia contends that petitioners were granted concession of interim bail vide order dated 09.01.2023 passed by ASJ, SAS Nagar subject to joining of investigation within seven days. On 25.01.2023, the investigation officer made a statement before the Sessions Court that petitioners have joined investigation and the weapon used in the commission of alleged offence is yet to be recovered. It is a case of dispute between two

neighbours and complainant as well petitioners are tenant in the same building. The complainant and petitioners have compromised the matter, thus, there seems no reason to arrest the petitioners. The petitioners are ready to join investigation and face proceedings. The petitioners are not involved in any other offence. There is no possibility of flee from justice. The arrest would cause irreparable loss, mental agony, embarrassment and humiliation to petitioners as well entire family.

Notice of motion.

On the asking of Court, Mr. Amish Sharma, AAG, Punjab who is present in court on advance notice, accepts notice on behalf of State-respondent. 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 petitioners 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 petitioners deserve protection from arrest. Accordingly, at the first instance, the petitioners are directed to appear before investigating

officer on 03.03.2023 and thereafter as directed by IO. In the event of arrest, the petitioners shall be admitted to interim bail on furnishing of bail/surety bonds to the satisfaction of investigating/arresting officer. The petitioners shall co-operate the investigating officer.

If the arresting officer does not permit the petitioners to join the investigation, the petitioners would appear before the learned Illaqa Magistrate who would then summon the arresting officer and direct them to join the petitioners in investigation, in terms of order of this Court.

Adjourned to 10.04.2023.

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 petitioners have joined investigation and no custodial interrogation is required.

In view of the above facts and circumstances, the petition is allowed and the interim bail granted to the petitioners vide order dated 27.02.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

If the petitioners or their 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.

10.04.2023
Mohit Kumar

(JAGMOHAN BANSAL)
JUDGE

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