

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

210

CRM-M-10417-2023
Date of Decision: 10.04.2023

Jagdish Chander

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Jatinder Dhanda, Advocate for the petitioner
Ms. Dimple Jain, AAG, Haryana
(assisted by ASI Sunita Devi)

JAGMOHAN BANSAL, J. (ORAL)

On 28.02.2023, the following order was passed:-

“Through instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioner is seeking anticipatory bail in FIR No. 76 dated 01.12.2022, under Sections 376(2)(n), 376-C, 506, 34, 201, 384 IPC and Sections 66E, 67A, 67-C of Information Technology Act, registered at Police Station Women, Hansi, District Hisar.

The case of prosecution is that on the complaint of prosecutrix, aforesaid FIR came to be registered. The complainantprosecutrix has made allegations against Ajmer Naik that he has sexually exploited her. Ajmer Naik is owner of one school where prosecutrix was working. In the CCTV camera, the prosecutrix and Ajmer Naik were recorded in compromising position. Co-accused Jagbir Singh down loaded CCTV footage

where presence of Ajmer Naik and prosecutrix was recorded in compromising position. Jagbir Singh forwarded said video to many persons including the present petitioner. The present petitioner further forwarded said video to many persons.

Learned counsel for the petitioner inter alia contends that petitioner is not accused of commission of offence punishable under Sections 376, 376-C, 506, 34, 201 and 384 IPC, however, he, at the most, is responsible for commission of offence punishable under Section 66E of IT Act wherein maximum prescribed sentence is three years. The petitioner is ready to join investigation and undertakes to hand over his mobile phone to the investigating officer.

Notice of motion.

On the asking of Court, Ms. Dimple Jain, AAG, Haryana 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 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 petitioner deserves protection from arrest. Accordingly, at the first instance, the petitioner is directed to appear before investigating officer on 04.03.2023 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.

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, on instructions from ASI Sunita Devi, submits that petitioner has 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 petitioner vide order dated 28.02.2023 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

10.04.2023
Mohit Kumar

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