

CRM-M-12664-2023

1

211-1

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

**CRM-M-12664-2023
Date of Decision: 24.05.2023**

Nakul Sharma

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Krishan Sharma, Advocate
for the petitioner.

Mr. Rupinder Singh Jhand, Addl. A.G., Haryana.

HARSH BUNGER, J. (Oral)

Prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.433, dated 07.08.2021, registered under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 (Section 201 IPC and Section 66 of the Information Technology Act added later on) at Police Station Kaithal City, District Kaithal (Haryana).

2. On 15.03.2023 the following order was passed by this Court :-

“Prayer in this petition, filed under Section 438 of the Code of Criminal Procedure, 1973, is for grant of anticipatory bail to the petitioner, in case FIR No.433 dated 07.08.2021, registered under Sections 420, 467, 468, 471, 120-B of the

Indian Penal Code (Section 201 of the Indian Penal Code and Section 66 of the Information Technology Act, added subsequently), at Police Station Kaithal City, District Kaithal (Haryana).

Brief facts of the case are that on 07.08.2021, when Sub-Inspector Kashmir Singh was on duty for the Haryana Police Constable Recruitment test; he received a secret information that three young boys sitting in white coloured Swift car bearing No.HR16N-4104 at Mata Gate, Kaithal, were supplying answer keys of the said test to other persons. Upon getting such secret information, Sub-Inspector Kashmir Singh apprehended accused Sandeep, Gautam and Naveen along with Swift car bearing registration No.HR16N-4104. It is submitted that on search of accused-Sandeep, one mobile phone make Samsung; answer keys of the examination and other documents on WhatsApp from mobile No.7027644242 and two hard copies of answer keys of the examination were recovered; from accused-Gautam, one white coloured mobile make Oppo; several admit cards of the candidates on WhatsApp were recovered and from third accused-Naveen, one black coloured mobile make Vivo was recovered and some suspicious messages were found to be sent and received through Whatsapp. Accordingly, the FIR in question was registered.

Learned counsel for the petitioner, inter alia, contends that the petitioner is innocent and has falsely been implicated in the present case on the basis of disclosure statement of accused-Virender Yadav and Manyank @ Ashu. Learned counsel also submits that the allegations levelled against the petitioner are totally false, whereas, there is nothing on record which would implicate him in this case. It is submitted that similarly situated several accused persons have been granted either regular bail or anticipatory bail, vide different orders as Annexures P-2 to P-7, whereas, the pre-arrest bail applied by the petitioner has wrongly been dismissed by the learned Additional Sessions

Judge, Kaithal, vide order dated 06.03.2023 (Annexure P-8). Learned counsel further submits that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency or as directed by this Court/trial Court.

Notice of motion.

On the asking of the Court, Mr. Amrik Narwal, Deputy Advocate General, Haryana, who is present in the Court, accepts notice on behalf of the respondent-State and opposes the petitioner's prayer for interim anticipatory bail on the ground of seriousness of offence. However, it is not disputed by learned State counsel that several other co-accused in this case have been granted either anticipatory bail or regular bail.

Keeping in view the fact that the name of the petitioner had figured in a disclosure statement; coupled with the fact that similarly situated several accused persons have already been granted regular bail/anticipatory bail vide different orders as Annexures P-2 to P-7, this Court is inclined to grant interim bail to the petitioner.

List on 24.05.2023.

Meanwhile, in the event of arrest of the petitioner, he shall be released on ad interim bail to the satisfaction of the Investigating/Arresting Officer. However, he shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.

A copy of the complete paper book be supplied to learned State counsel by the learned counsel for the petitioner during course of the day."

3. Learned counsel for the petitioner submits that pursuant to the aforesaid order, the petitioner has joined the investigation.
4. Learned State counsel on instructions from Inspector Amit has not disputed the aforesaid fact of joining of investigation by the petitioner

CRM-M-12664-2023

4

and submits that his custodial interrogation is not required at this stage.

5. Heard learned counsel for the parties.
6. Since the petitioner has joined the investigation and his custodial interrogation is not required at this stage, the present petition is allowed and the ad-interim order dated 15.03.2023 passed by this Court is made absolute.
7. However, the petitioner shall continue to join the investigation as and when required to do so and abide by all the conditions laid down under Section 438(2) Cr.P.C.
8. It is made clear that if the petitioner fails to comply with any of the bail conditions laid down under Section 438(2) Cr.P.C, the State would be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioner.
9. Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for anticipatory bail at this stage.
10. The petition is accordingly disposed of.

24.05.2023

Himani

(HARSH BUNGER)
JUDGE

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