

CRM-M-13493-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-13493-2023
Date of Decision: 18.05.2023

Jasbir Singh @ Rinku

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Mandeep Kumar Dhot, Advocate
for the petitioner.

Mr. Harjinder S. Sidhu, AAG, Punjab.

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.07, dated 20.02.2023, registered under Section 379 of the Indian Penal Code, 1860 (Section 411 of the Indian Penal Code added later on) at Police Station Sherpur, District Sangrur (Annexure P-1).

2. On 23.03.2023 the following order was passed by this Court :-

"CRM-13273-2023

This is an application for placing on record the order dated 02.03.2023 (Annexure P-3) passed by learned Judicial Magistrate Ist Class, Dhuri, granting regular bail to the co-accused of the petitioner.

Criminal Misc. Application is allowed, as prayed for and

Annexure P-3 is taken on record, subject to all just exceptions.

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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.07 dated 20.02.2023, registered under Sections 379 of the Indian Penal code, 1860 (Section 411 of the Indian Penal Code, added later on) at Police Station Sherpur, District Sangrur (Annexure P-1).

Succinctly, the above-said FIR has been registered on the statement of one Mohinder Singh, who had submitted that he and his nephew are having land and they are having electric motors in their respective fields. It is stated that they have given their land to one Gurmail Singh, on lease and on 19.02.2023, said Gurmail Singh informed the complainant regarding theft of starters of electric motors and cable wire by some un-known persons and he heard about the similar theft, having been committed in his neighbouring fields. On the basis of the allegations made in the complaint, the FIR in question was registered.

Learned counsel for the petitioner contends that the petitioner is innocent and has falsely been implicated in the present case. He further submits that there is an un-explained delay of one day in lodging of the FIR in question. Learned counsel further submits that the allegation of theft are there against the petitioner and his co-accused namely, Harpreet Singh, whereas there is neither any proof nor any witness to connect the present petitioner with the alleged theft. It is submitted that the alleged offences are triable by the Magistrate and the offence under Section 411 of the Indian Penal Code, is made out only against co-accused/Harpreet Singh (from whom the alleged recovery has been effected), who has been granted regular bail by the learned Judicial Magistrate Ist Class, Dhuri, whereas, the prearrest bail applied by the petitioner has wrongly been dismissed by the learned Additional Sessions

Judge, Sangrur, vide order dated 14.03.2023 (Annexure P-2). Learned counsel further submits that the petitioner is not involved in any other case except the present one and nothing is to be recovered from him. Learned counsel also submitted 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. Subhash Godara, Additional Advocate General, Punjab, 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 that the petitioner is not involved in any other case and another co-accused (Harpreet Singh) has already been granted regular bail.

List on 18.05.2023.

In the 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 ASI Gurtej Singh has not disputed the aforesaid fact of joining of investigation by the petitioner and submits that his custodial interrogation is not required at this stage.

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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 23.03.2023 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.

18.05.2023

Himani

(HARSH BUNGER)
JUDGE

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