

CRM-M-14486-2023

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2023:PHHC:090632

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CRM-M-14486-2023

Date of Decision: 19.07.2023

Jai Parkash

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Aditya Sanghi, Advocate for the petitioner.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

Mr. Ajay Kamboj, Advocate for the complainant.

NIDHI GUPTA, J. (ORAL)

The petitioner is seeking anticipatory bail in FIR No. 03 dated 21.01.2023 registered under Sections 354-D and 506 IPC and Section 67 of the Information Technology Act, 2000 at Women Police Station Sirsa, District Sirsa.

On 22.03.2023, this Court had passed the following order :-

“Through instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioner is seeking anticipatory bail in FIR No. 03 dated 21.01.2023, under Sections 354-D and 506 of IPC and Section 67 of Information Technology Act, 2000 (in short “I.T.Act”), registered at Police Station, Women Police Station, Sirsa, District Sirsa.

The case of prosecution is that on 21.1.2023, complainant lodged complaint against the petitioner alleging that she had friendly relations with Jai Parkash-petitioner. Taking undue advantage of their friendship, he started chasing her and also threatening her to kill her parents. He used to make calls on her mobile phone. One week prior to filing complainant, she went to Delhi for preparation of Indore test. The petitioner made her fake ID

and started sending obscene messages by way of using filthy language through fake ID to her friends and relatives. Cousin of the victim namely Tanisha told her about the same and she narrated the incident to her parents.

Learned counsel for the petitioner inter alia contends that FIR stands registered under Section 354-D & 506 of IPC and Section 67 of I.T.Act. The offence punishable under Section 354-D of IPC is a bailable offence and maximum sentence prescribed under Section 67 of I.T. Act is three years. The petitioner was concededly having friendly relations with complainant, thus, there was no question of stalking her or harassing her. They both had celebrated New Year on 1.1.2023 and birthday of the complainant on 6.10.2021 at Heritage Resort. He is having photographs of the celebrations. He has never extended threats to complainant. The complainant has not annexed any evidence of fake ID created by petitioner and sending of obscene messages. The petitioner is ready to join investigation and face proceedings. 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.

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.

Ms. Gurpreet Kaur, Advocate, appeared on behalf of the complainant. She is directed to file Power of Attorney in the Registry of the court.

*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, 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 28.03.2023 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 29.05.2023.

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 Inspector Manju states that in terms of the order passed by this Court, reproduced above, the petitioner has joined the investigation and no further interrogation is required at this stage.

In view of the above, the order dated 22.03.2023 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join the investigation and cooperate with the investigating agency in case he is required for the same in future as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the investigating agency that the petitioner is required for the investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

19.07.2023

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**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No