

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

209

CRM-M-16183-2023

Date of Decision: 26.05.2023

Yogesh Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Kartik Khicher, Advocate for
Mr. Baljeet Beniwal, Advocate for the petitioner
Ms. Dimple Jain, DAG, Haryana
(assisted by ASI Balbir)

JAGMOHAN BANSAL, J. (ORAL)

1. Through instant petition under Section 438 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), the petitioner is seeking anticipatory bail in FIR No.70 dated 30.1.2023, under Sections 147, 149, 323, 354, 452 and 506 of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station, City Ballabhgarh, District Faridabad.

2. On 28.04.2023, the following order was passed:-

“Counsel for the petitioner has placed on record final report under Section 173 Cr.P.C. with respect to FIR No.115 dated 11.09.2022. The said FIR was also lodged by complainant of the present FIR. In the challan it is specifically noticed that she was thrown from the house in question and house in question has been transferred by her mother-in-law in the name of her sister-in-law. She had further disclosed her present address different from house where offence alleged to be committed. The petitioner is ready to join investigation.

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, returnable for 26.05.2023.

On the asking of Court, Ms. Dimple Jain, AAG, Haryana, who on advance notice, is present in court, 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, 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 04.05.2023 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.

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.”

3. Learned State counsel, on instructions from ASI Balbir, submits that petitioner has joined investigation and no custodial interrogation is required.
4. In view of above facts and circumstances, the petition is allowed and the interim bail granted to the petitioners vide order dated 28.04.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.
5. If the petitioner 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.
6. 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

26.05.2023
Mohit Kumar

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