

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

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CRM-M-16679-2023 (O&M)

Date of Decision: 30.05.2023

Mohammad Ahsan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Saleem Ahmed, Advocate for the petitioner

Ms. Priyanka Sadar, AAG, Haryana

Ms. Sunita Gupta, Advocate for

Mr. Mohammad Arshad, Advocate for the complainant

JAGMOHAN BANSAL, J. (ORAL)**CRM-24723-2023**

Application for placing on record Annexures R-1 to R-6 is allowed. The same are taken on record subject to just exceptions. Registry is directed to tag at appropriate place.

CRM stands disposed of.

CRM-M-16679-2023

1. On 27.04.2023, the following order was passed:-

“Through instant petition under Section 438 of Code of Criminal Code, 1973, the petitioner is seeking anticipatory bail in FIR No.39 dated 03.03.2023, registered at Police Station Nagina, District Nuh, under Sections 323, 354, 379A, 452, 506, 34 of Indian Penal Code, 1860.

Learned counsel for the petitioner inter alia contends that FIR has been registered on the basis of complaint lodged by wife of brother-in-law of the petitioner. The petitioner has solemnised 2nd marriage with Rehsuna. The parents of 1st wife are having grudge against the petitioner and they have lodged FIR against him. FIR No.45 dated 12.03.2022 was lodged against petitioner by parents of Rehsuna i.e. 2nd wife and that FIR stands cancelled. Rehsuna lodged FIR against husband of the complainant of present FIR which has already been cancelled. The allegations levelled by the wife of brother-in-law of the petitioner are concocted and outcome of grudge of 2nd marriage of the petitioner. The petitioner is not involved in any other offence. The petitioner is permanent resident of District Nuh and staying with his family members. The petitioner is ready to join investigation and face trial. 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.

Learned State counsel, pointing out State reply, submits that FIR No.45 against petitioner stands cancelled and he has solemnised 2nd marriage which is root cause of multiple FIR(s).

Mr. Mohammad Arshad, learned counsel for the complainant submits that 2nd wife of the petitioner is threatening complainant and she has lodged complaint with police. The petitioner has committed alleged offence, thus, he does not deserve the concession of interim bail.

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 the 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.

Adjourned to 30.05.2023."

2. Learned State counsel submits that petitioner has joined investigation and no custodial interrogation is required.

3. In view of above facts and circumstances, the petition is allowed and the interim bail granted to the petitioner vide order dated 27.04.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

4. 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.

5. 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

30.05.2023
Mohit Kumar

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