

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

278

CRM-M-19010-2023

Date of Decision: 22.05.2023

Keshav Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Ashwani, Advocate for
Ms. Jasneet Mehra, Advocate for the petitioner
Ms. Priyanka Sadar, AAG, Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. On 19.04.2023, the following order was passed:-

“Through instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioner is seeking anticipatory bail in FIR No. 378 dated 18.10.2022, under Sections 323, 506, 34, 354-A(2) of IPC, registered at Police Station, Civil Lines Bhiwani, District Bhiwani.

Learned counsel for the petitioner inter alia contends that there is no allegation of commission of offence punishable under Section 354-A IPC against the petitioner. Considering this aspect, Additional Sessions Judge, Bhiwani vide order dated 14.11.2022 granted concession of anticipatory bail with a direction to petitioner to surrender before investigating officer within five days and furnish bail bonds to his/her satisfaction. The petitioner appeared before investigating officer, however, she on the pretext of being busy did not join the petitioner to investigation. The petitioner was every time

told that he would be called at appropriate time. On account of non-joining of investigation on the part of investigating officer, the petitioner moved an application before Additional Sessions Judge seeking direction to investigating officer to permit the petitioner to join investigation, however, Additional Sessions Judge has dismissed application of the petitioner. The petitioner and complainant are real brothers and property dispute is going on between them. 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.

In view of the above, 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 24.04.2023 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 22.05.2023. 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.”

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 19.04.2023 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

22.05.2023
Mohit Kumar

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