

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

207+2

CRM-M-19683-2023

Date of Decision: 02.05.2023

Davinder Kumar

...Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Kamal Narula, Advocate for the petitioner

Mr. Shiva Khurmi, AAG, Punjab
(assisted by ASI Mehal Singh)Mr. Vishal Gupta, Advocate with
Mr. Abhishek Sharma, Advocate for respondent No.2

JAGMOHAN BANSAL, J. (ORAL)

1. On 21.04.2023, the following order was passed:-

“Through instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioner is seeking anticipatory bail in in Complaint case No. COMI/2/2019 titled as “Rajneet Kaur vs. Davinder Kumar and another”, dated 8.1.2019, under Section 307, 406, 498-A, 325, 324 and 34 IPC, pending in the Court of Sessions Judge, Ferozepur.

Learned counsel for the petitioner inter alia contends that complainant lodged DDR against her husband/petitioner. The police, in the investigation did not find any substance in the complaint and FIR was not registered. The complainant with improved version filed complaint before trial court against petitioner as

well as her parentsin-law. As per complainant, the alleged incident i.e. attempt to kill the complainant took place on 15.2.2018. The trial court vide order dated 4.2.2023 has summoned the petitioner and his family members to face trial for commission of offence punishable under Sections 406, 498-A, 307 and 34 IPC. This Court vide order dated 17.4.2023 in CRM-M18045 of 2023 has granted concession of interim anticipatory bail to brother and father of the petitioner. 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, returnable for 02.05.2023.

On the asking of Court, Mr. Amish Sharma, AAG, Punjab, who is present in court on advance notice, accepts notice on behalf of State-respondent.

Mr. Vishal Gupta, Advocate, filed vakalatnama on behalf of the complainant. The same is taken on record. Registry is directed to tag the same at an appropriate place.

Learned counsel for the complainant submits that police did not carry out investigation in fair and unbiased manner, thus, FIR was not registered. Left with no other option, the complainant approached trial court which after considering evidence has summoned the petitioner to face trial. On account of his act and conduct, the petitioner does not deserve concession of anticipatory bail.

I have heard arguments of learned counsel for the parties and perused the record.

From the perusal of record it comes out that alleged incident took place in February' 2018 and summoning order came to be passed in February' 2023 i.e. after five years from the date of alleged incident. The police did not find any substance in the complaint of the complainant. The intent of arrest is to prevent an accused from causing damage to himself/herself or witnesses or complainant. The further object is to complete investigation without any interference and influence of the accused. Accused(s) is/are arrested in few cases, where there is possibility of flee from justice.

In the case in hand, the alleged incident took place in 2018 and there is nothing on record to show that there is possibility of flee from justice. There is no allegation or evidence that petitioner during last five years has attempted to manipulate or destroy evidence or win over the witnesses, thus, there seems no reason to put the petitioner behind the bars after period of five years from the date of alleged incident.

In view of the above facts and findings, if the petitioner surrenders before the trial court within a week from today, the trial court shall release him on bail on furnishing bail bonds to its satisfaction and subject to payment of Rs. 50,000/- to the private-respondent (complainant) towards litigation expenses.

To be heard alongwith CRM-M- 18045 of 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 counsel for the private respondent has confirmed that petitioner has paid Rs.50,000/- towards litigation expenses as ordered by this Court.
3. As per order dated 26.04.2023 passed by Sub-Divisional Judicial Magistrate, Guruharshai, District Ferozepur, the petitioner has appeared before Trial Court and furnished bail bonds which stand accepted.
4. In view of furnishing of bail bonds and release of petitioner on regular bail, no further order is warranted.

Disposed of.

(JAGMOHAN BANSAL)
JUDGE

02.05.2023
Mohit Kumar

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