

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

211/1

CRM-M-20847-2023

Date of Decision: 29.05.2023

Ashwani Kumar Dutta

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. G.B.S Dhillon, Advocate for the petitioner

Ms. Guramrit Kaur, DAG, Punjab
(assisted by ASI Narinder Kaur)Mr. Bhupinder Singh Gill, Advocate for the complainant
*****JAGMOHAN BANSAL, J. (ORAL)**

1. Mr. Bhupinder Singh Gill. Advocate appeared and filed his Power of Attorney on behalf of the complainant. The same is taken on record. Registry is directed to tag at an appropriate place.

2. On 27.04.2023, 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. 0010 dated 11.3.2023, under Sections 406 and 498-A IPC, registered at Police Station, Women Cell, District SAS Nagar Mohali.

Learned counsel for the petitioner inter alia contends that that petitioner is a 68 years old man and he is suffering from multiple ailments. He is almost bed ridden due to surgeries of legs and hip replacement. The petitioner is father-in-law of the complainant and complainant in her complaint has also accepted that

petitioner is suffering from different diseases and she has helped in his treatment. It was a love marriage of the complainant with son of the petitioner. The complainant has grudge against her husband and petitioner has been wrongly implicated. 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 29.05.2023.

On the asking of Court, Mr. Shiva Khurmi, AAG, Punjab 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, Arnesh Kumar V. State of Bihar (2014) 8 SCC 273, 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 Narinder Kaur, 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 petitioner vide order dated 27.04.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

5. 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.

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

29.05.2023
Mohit Kumar

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