

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

209

CRM-M-24264-2022

Date of Decision: 12.04.2023

Gautam Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Mandeep Singh, Advocate for
Mr. Karandeep Singh, Advocate for the petitioner
Mr. Amish Sharma, AAG, Punjab
(assisted by ASI Bahadur Singh)
Mr. R.S. Sekhon, Advocate for the complainant

JAGMOHAN BANSAL, J. (ORAL)

The petitioner through instant petition under Section 438 Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking concession of anticipatory bail in FIR No.70 dated 04.05.2022 under Sections 366 & 376 of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station, City 1 Abohar, Tehsil, Abohar, District Fazilka.

On 06.12.2022, the following order was passed:-

“Learned counsel for the petitioner has reiterated his submission that the petitioner and complainant are of the major age and there was a consensual relationship between them. He submits that

offence under Section 376 IPC is not made out against the petitioner and he has no criminal antecedents.

Learned State counsel submits that this Court vide order dated 31.05.2022 has stayed the arrest of the petitioner, however, there was no order to join the investigation by the petitioner and the same is held up.

In these circumstances, the order dated 31.05.2022 is modified to the extent that in the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation before the Investigating Agency/Officer. He shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:-

(i) That the petitioner shall make himself available for interrogation by a police officer as and when required to do so.

(ii) That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iii) That the petitioner shall not leave India without prior permission of the court.

List on 12.04.2023.”

Learned State counsel, on instructions from ASI Bahadur Singh, submits that petitioner has joined investigation and no custodial interrogation is required.

In view of the above facts and circumstances, the petition is allowed and the interim bail granted to the petitioner vide order dated 06.12.2022 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

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.

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

12.04.2023
Mohit Kumar

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