

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

223

CRM-M-23840-2023

Date of Decision: 25.05.2023

Teetu @ Shish Mohd @ Shish Ahmed

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

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

Ms. Dimple Jain, AAG, Haryana
(assisted by SI Virender)

JAGMOHAN BANSAL, J. (ORAL)

1. On 11.05.2023, 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. 45 dated 04.02.2021, under Sections 376, 354-A, 342, 506 and 34 IPC, registered at Police Station Ferozepur Jhirka District Nuh (Haryana).

Learned counsel for the petitioner inter alia contends that petitioner was not named in the FIR. In the FIR, there was allegation of rape against Waseem Akram. It was further alleged in the FIR that Nasir, Shahid Afridi and Ajji were sitting in a hut different from the hut where rape was committed. The petitioner joined investigation and he was not implicated. The police after two years from the date of registration of FIR has started raiding house of the petitioner which compelled him to file anticipatory bail before Sessions

Court. This Court vide order dated 28.05.2021 extended concession of interim anticipatory bail to co-accused Shahid Afridi and his bail was confirmed vide order dated 03.08.2021 passed by this Court. Waseem Akram who is main accused has been acquitted vide judgment dated 10.05.2023 passed by Additional Sessions Judge, Nuh. 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 25.05.2023.

On the asking of Court, Ms. Dimple Jain, DAG, Haryana 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 and on the ground of parity, 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

17.05.2023 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.”

2. Learned State counsel, on instructions from SI Virender, 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 11.05.2023 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

24.05.2023
Mohit Kumar

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