

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

CRM-M-28650-2023

Date of decision : 17.07.2023

Jatin

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Parveen Chauhan, Advocate
for the petitioner.

Mr. A.K. Sehrawat, Dy. Advocate General, Haryana.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.506 dated 19.10.2022 registered for the offences punishable under Sections 420, 467, 468, 471 read with 120 IPC and Section 132 of SGST CGST Act, Police Station Civil Line, Sonipat, District Sonipat.

2. Counsel for the petitioner submits that the investigation is complete and Challan already stands presented. All the evidence is in the form of documents which is in possession of the Investigating Agency. Thus there can't be any apprehension that the petitioner shall tamper with the same and the custody cannot be used as a punitive measure. Further contends that the petitioner has no criminal antecedents.

3. Ld. State Counsel on the other hand submits that the petitioner is accused of offence punishable under the GST Act as having provided

PAN Card and Aadhar Card of the complainant to the accused.

4. I have heard counsel for the parties and have gone through records of the case.

5. Apex Court in the case of 'Satender Kumar Antil vs. Central Bureau of Investigation & Anr.' (2022) 10 SCC 51 held as under :

“68. Criminal courts in general with the trial court in particular are the guardian angels of liberty. Liberty, as embedded in the Code, has to be preserved, protected, and enforced by the Criminal Courts. Any conscious failure by the Criminal Courts would constitute an affront to liberty. It is the pious duty of the Criminal Court to zealously guard and keep a consistent vision in safeguarding the constitutional values and ethos. A criminal court must uphold the constitutional thrust with responsibility mandated on them by acting akin to a high priest. This Court in *Arnab Manoranjan Goswami v. State of Maharashtra*, (2021) 2 SCC 427, has observed that:

"67. Human liberty is a precious constitutional value, which is undoubtedly subject to regulation by validly enacted legislation. As such, the citizen is subject to the edicts of criminal law and procedure. Section 482 recognises the inherent power of the High Court to make such orders as are necessary to give effect to the provisions of CrPC "or prevent abuse of the process of any court or otherwise to secure the ends of justice". Decisions of this Court require the High Courts, in exercising the jurisdiction entrusted to them under Section 482, to act with circumspection. In emphasising that the High Court must exercise this power with a sense of restraint, the decisions of this Court are founded on the basic principle that the due enforcement of criminal law should not be obstructed by the accused taking recourse to artifices and strategies. The public interest in ensuring the due investigation of crime is protected by

ensuring that the inherent power of the High Court is exercised with caution. That indeed is one-and a significant-end of the spectrum. The other end of the spectrum is equally important : the recognition by Section 482 of the power inhering in the High Court to prevent the abuse of process or to secure the ends of justice is a valuable safeguard for protecting liberty. The Code of Criminal Procedure, 1898 was enacted by a legislature which was not subject to constitutional rights and limitations; yet it recognised the inherent power in Section 561-A. Post-Independence, the recognition by Parliament [section 482 CrPC, 1973] of the inherent power of the High Court must be construed as an aid to preserve the constitutional value of liberty. The writ of liberty runs through the fabric of the Constitution. The need to ensure the fair investigation of crime is undoubtedly important in itself, because it protects at one level the rights of the victim and, at a more fundamental level, the societal interest in ensuring that crime is investigated and dealt with in accordance with law. On the other hand, the misuse of the criminal law is a matter of which the High Court and the lower courts in this country must be alive. In the present case, the High Court could not but have been cognizant of the specific ground which was raised before it by the appellant that he was being made a target as a part of a series of occurrences which have been taking place since April 2020. The specific case of the appellant is that he has been targeted because his opinions on his television channel are unpalatable to authority. Whether the appellant has established a case for quashing the FIR is something on which the High Court will take a final view when the proceedings are listed before it but we are clearly of the view that in failing to make even a prima facie evaluation of the FIR, the High Court abdicated its constitutional duty and function as a protector of liberty. Courts must be alive to the need to safeguard the public interest in ensuring that the due enforcement of criminal law

is not obstructed. The fair investigation of crime is an aid to it. Equally it is the duty of courts across the spectrum-the district judiciary, the High Courts and the Supreme Court-to ensure that the criminal law does not become a weapon for the selective harassment of citizens. Courts should be alive to both ends of the spectrum-the need to ensure the proper enforcement of criminal law on the one hand and the need, on the other, of ensuring that the law does not become a ruse for targeted harassment. Liberty across human eras is as tenuous as tenuous can be. Liberty survives by the vigilance of her citizens, on the cacophony of the media and in the dusty corridors of courts alive to the rule of (and not by) law. Yet, much too often, liberty is a casualty when one of these components is found wanting."

(emphasis supplied)"

6. Without commenting on the merits of the case and keeping in view that the investigation already stands concluded and in view of law laid down by the Apex Court in **Satender Kumar Antil's** case (supra), the present petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

7. Needless to say anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

July 17, 2023

Dpr

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(Pankaj Jain)
Judge