

CRM-M-36951-2022

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2023:PHHC:060375

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

CRM-M-36951-2022

Date of Decision:27.04.2023

ANKUSH GARG

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. Shiva Khurmi, AAG, Punjab.

Mr. Ravi Malhotra, Advocate
for the complainant.

JAGMOHAN BANSAL, J. (Oral)

On 31.08.2022 following order was passed:

“CRM-29981-2022

Prayer made in the application is for exemption from filing typed/certified/legible/dim copy/misprint of Annexures P-1 to P-10. Application is allowed subject to all just exceptions.

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Instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 (for short “the Code”) for grant of anticipatory bail in FIR No.74 dated 17.03.2022, registered for offence under Section 376 of the Indian Penal Code, 1860, at Police Station City Kharar, District SAS Nagar, Annexure P-1. Besides urging, there is an unexplained delay of 15 days in lodging of FIR, Annexure P-1, counsel for the petitioner submits that

the prosecutrix had, on earlier occasions, levelled false allegations against other shopkeepers, vide FIRs, Annexures P-2, P-5 and P-8. Still further, counsel submits that 3 days after the alleged incident, the prosecutrix can be seen sitting in the shop of the petitioner. He has referred to the photographs taken from the CCTV recording, Annexure P-9.

Notice of motion.

On asking of the Court, Mr. P.S.Grewal, DAG, Punjab accepts notice on behalf of the respondent-State. Upon instructions from ASI, Chamkaur Singh, he submits that the prosecutrix has supported allegations, in her statement, under Section 164 of the Code and she has been medically examined, but there is no sign of any injury having been suffered by her.

State is directed to file a status report.

List on 18.01.2023.

In the meanwhile, arrest of the petitioner shall remain stayed.

Petitioner is directed to appear before the Investigating Officer at Police Station City Kharar, District SAS Nagar on 08.09.2022 at 10.00 A.M. and hand over whatever material is in his possession to the Investigating Officer.

It is clarified that joining of investigation by the petitioner will not vest any right in him.”

Learned State counsel submits that petitioner has joined investigation and handed over DVR. The FSL report is still awaited, thus, they may be permitted to move an appropriate appropriate, if some adverse material is found in the FSL report.

In view of the above, the petition is allowed and the interim protection granted to the petitioner vide order dated 31.08.2022 is made

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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.

The State is at liberty to move an appropriate application, if something survives.

(JAGMOHAN BANSAL)
JUDGE

27.04.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>