

IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH

239

CRM-M-35041-2019 (O&M)

Date of Decision: 28.07.2023

THAKUR SINGH

... Petitioner

Versus

STATE OF HARYANA AND ANR

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Hemant Bassi, Advocate
for the petitioner.

Ms. Ankita Ahuja, AAG Haryana.

Mr. Vishal Rattan Lamba, Advocate
for respondent No.2.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this petition is for setting aside the order dated 16.01.2019 (Annexure P-3) passed by the learned Sub-Divisional Judicial Magistrate, Tohana, in a trial emanating from FIR No.7 dated 08.01.2019 (Annexure P-1) under Sections 384, 388, 34, 120-B and 201 IPC, registered at Police Station City Tohana, District Fatehabad.

Learned counsel for the petitioner submits that the impugned order passed by the Court below is vitiated as the learned Magistrate could not have exercised the discretion under Section 438 Cr.P.C. for grant of anticipatory bail. He lays emphasis on the reply filed on behalf of the respondent No.1-State wherein it is stated that the impugned order passed by the Court below is liable to be quashed.

On the other hand, learned counsel for respondent No.2 submits that the impugned order was passed under Section 439 Cr.P.C. and not under Section 438 Cr.P.C., inasmuch as, Diksha (respondent No.2) and Asha Rani had surrendered before the Court below and vide impugned order, they were released on regular bail and not on anticipatory bail.

Learned State counsel submits that during investigation, Diksha and Asha Rani were found innocent and accordingly, they were kept in column No.2 of the challan and that post presentation of challan, the charges were framed against the accused but not against Diksha and Asha Rani. She, thus, submits that the present petition has become infructuous.

In view of the above, no further orders are required to be passed by this Court.

Dismissed as having become infructuous.

28.07.2023

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*