

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

211

CRM-M-45249-2022

Date of Decision: 15.05.2023

Sher Singh**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Namit Khurana, Advocate for the petitioner

Ms. Dimple Jain, DAG, Haryana.
(assisted by ASI-Masroof Ali)Ms. Meenakshi Bali, Advocate for
Mr. G.C. Shahpuri, Advocate for the complainant.

JAGMOHAN BANSAL, J. (ORAL)

1. On 29.09.2022, the following order was passed:-

“ Prayer in the present application is for grant of anticipatory bail to the petitioner in case FIR No. 388 dated 13.09.2022, under Sections 354-A,354-D of IPC and Section 67-A of IT Act, registered at Police Station Gandhi Nagar, District Yamuna Nagar.

Learned counsel for the petitioner has submitted that the petitioner is 50 years old man and complainant is also 55 years old and both knew each other for the last one year. He has further submitted that the petitioner is running a shop of selling curtains which complainant used to purchase from him and on 05.08.2022, she took curtains for an amount of Rs.12,500/-. He has further submitted that the complainant wanted to purchase mobile phone of petitioner which he initially wanted to sell but later on, decided not to dispose of the same.

When the petitioner demanded Rs.12,500/- from the complainant, she got recorded this FIR on the basis of false and frivolous allegations. He has submitted that the petitioner has not sent any indecent messages through Whatsapp to the complainant and the present case has been lodged by the complainant just to settle the score with the petitioner. It is further submitted that the complainant is habitual of making such false case and earlier also she had filed such complaints. He has further submitted that no case for the custodial interrogation is made out and he is ready to join investigation and comply with the terms and conditions if any imposed by this Court while accpeting his request for the grant of anticipatory bail.

Notice of motion.

On asking of the Court, Mr. B.S. Virk, DAG, Haryana accepts notice on behalf of the respondent-State. Mr. G.C. Shahpuri, Advocate accepts notice on behalf of the complainant and filed memorandum of appearance, which is taken on record. He has stated that there are serious allegations of sending indecent messages to the complainant and as such, petitioner is not entitled for any relief from this Court.

Petitioner is directed to implead complainant as a party in the present petition and file amended memo of parties within two weeks from today.

Let the State file staus report on or before the next date of hearing.

List on 02.02.2023.

In the meantime, 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 policy 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.”*

2. Learned State counsel, on instructions from ASI- Masroof Ali, submits that petitioner has joined investigation, however, report of laboratory with respect to whatsapp messages sent by petitioner to complainant is still awaited.

3. The case of the complainant is that the petitioner has sent obscene messages to her. In the absence of report of the laboratory, it cannot be concluded that petitioner has sent alleged messages.

4. In view of above stated facts and circumstances, the petition is allowed and the interim bail granted to the petitioner vide order dated 29.09.2022 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

It is made clear that State is at liberty to move an appropriate application, if in the laboratory report, it is found that alleged messages have been sent by petitioner to complainant.

5. If the petitioner or her 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

6. 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

15.05.2023
harish kumar

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