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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-48196-2022 (O&M)
Date of decision : 15.11.2023

Kapil

... Petitioner(s)

Versus

State of Haryana & Anr.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rohit Rattewal, Advocate for
Mr. Yogesh Goel, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG Haryana.

ALKA SARIN, J. (ORAL)

1. This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.388 dated 15.08.2022 under Sections 376-D, 506, 363, 366, 114, 365 of the Indian Penal Code, 1860 registered at Police Station Model Town Rewari, District Rewari.

2. On 18.10.2022 the following order was passed :

“Instant petition has been filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case FIR No.388, dated 15.08.2022, under Sections 376-D, 506, 363, 366, 114, 365 IPC, registered at Police Station Model Town Rewari, District Rewari. It has been contended by counsel for the petitioner that petitioner is neither named in the FIR nor in the statement of the prosecutrix recorded under Section 164 Cr.P.C. It is further submitted that petitioner and the prosecutrix both are of the age of majority. He submits

that subsequently on the statement of co-accused, the petitioner has been roped in the present case. It is further submitted that the petitioner has no criminal antecedents and in view of the above-mentioned facts, no case for custodial interrogation is made out, however, he is ready to join the investigation and abide by all the terms and conditions of the anticipatory bail if this Court considers his request for granting the same.

Issue notice of motion for 17.01.2023.

On the asking of the Court, Mr.B.S. Virk, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent-State.

State is directed to file status report on or before the next date of hearing.

In the meantime, no coercive action be taken against the petitioner till the next date of hearing.”

Thereafter on 17.01.2023 the following order was passed :

“In compliance of the order dated 18.10.2022, the status report has been filed by way of an affidavit of Mukesh Kumar, HPS, Deputy Superintendent of Police, Kosli, District Rewari on behalf of respondent, which is taken on record.

Learned counsel for the petitioner submits that the statement of the prosecutrix has already been recorded, in which she has categorically stated that no role is attributed to the petitioner.

Learned State counsel has opposed the same.

Keeping in view the above, the petitioner is directed to join the investigation on 20.01.2023 at 11:00 A.M. before the Investigating Officer and cooperate with the

Investigating Agency in getting the original record of her treatment also.

In the meanwhile, in the event of arrest, the petitioner be released on interim bail subject to furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer. However, the petitioner shall join investigation and shall abide by the conditions as envisaged under Section 438 (2) Cr.P.C.

Adjourned to 21.03.2023.”

3. Learned counsel for the petitioner would contend that pursuant to the said order the petitioner has joined investigation and has fully cooperated.

4. Learned counsel for the State, on instructions from ASI Shiv, has stated that the petitioner has since joined investigation and has fully cooperated and that he is no longer required for further custodial interrogation as of now.

5. In view of the above, the order dated 17.01.2023 is made absolute. The petitioner shall, however, join investigation as and when called. The petitioner shall also abide by all the terms and conditions as specified under Section 438(2) of the Code of Criminal Procedure, 1973.

6. Disposed off accordingly. Pending applications, if any, also stand disposed off.

15.11.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO