

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-54606-2023
Date of decision: 15.12.2023

Vijay Goyal and another

....Petitioners.

Versus

State of Punjab

....Respondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Aman Bansal, Advocate,
for the petitioners.

Mr. Anmol Singh Sandhu, AAG, Punjab.

Mr. Achin Gupta, Advocate,
for the complainant.

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SANJIV BERRY, J. (ORAL)

1. By way of present petition filed under Section 438 Cr.P.C, the petitioners seek anticipatory bail in case FIR (Annexure P-1) as under: -

FIR No.	Dated	Sections	Police Station
208	30.11.2021	302, 323, 148 and 149 IPC	P.S. CityMoga, District Moga, Punjab

2. Learned counsel for the petitioners submits that in compliance to the order dated 24.11.2023, the petitioners have joined

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the proceedings in the Trial Court and furnished the requisite bail bonds.

3. Learned State counsel has not controverted the aforesaid fact that petitioners have furnished the requisite bail bonds.

4. Learned counsel for the complainant has submitted that considering the gravity of offence, the petitioners are not entitled for grant of anticipatory bail.

5. During the course of hearing on 24.11.2023, the following order was passed: -

‘The instant petition has been preferred by the petitioner under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in the following case:-

<i>FIR No.</i>	<i>Dated</i>	<i>Sections</i>	<i>Police Station</i>
208	30.11.2021	302, 323, 148 and 149 IPC	P.S. City Moga, District Moga, Punjab

Wherein the petitioners have been summoned to face trial on application under Section 319 Cr.P.C moved by the complainant.

2. It is inter alia submitted by learned Senior counsel that the petitioners are innocent and not concerned with the alleged incident. He submits that the shop of petitioners is adjoining to the shop of the complainant and after registration of the FIR by the complainant, inquiries were

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conducted by the police, firstly by Deputy Superintendent of Police (H), Moga and thereafter by Special Investigation Team (SIT), Moga wherein after considering the CCTV footage and also the tower locations of the petitioners, the petitioners have been found innocent and exonerated. Challan was presented qua the co-accused, however on the application under Section 319 Cr.P.C moved by the complainant, the learned trial Court have summoned the petitioners to face the trial. He submits that the version given by the complainant at the time of registration of the FIR from the very inception remains the same and after thorough inquiry in the matter both the petitioners had been exonerated by the police and the challan was not presented against them, however complainant while appearing in the witness box reiterated the same version and on the basis of application, the petitioners have been summoned by the learned trial Court under Section 319 Cr.P.C. He submits that challan has already been presented in the trial Court, custodial interrogation of the petitioners is not required and they are ready to face the trial.

3. Per contra learned State counsel submits that the petitioners had been found innocent during inquiry conducted by Deputy Superintendent of Police, Moga as well as Special Investigation Team (SIT), Moga, however they have been summoned to face trial on an application moved by the complainant under Section 319 Cr.P.C by the learned trial Court. He submits that the challan has been presented in Court.

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4. After considering the rival contentions and perusing the record, it is not disputed that the petitioner have been named in the FIR along with other co-accused, had since been declared innocent and exonerated in the inquiries conducted by Deputy Superintendent of Police, Moga as well as Special Investigation Team (SIT), Moga considering the CCTV footage and the tower locations qua the petitioners and as a result they were not challaned, whereas the challan against the other co-accused had been presented. It is, during the course of trial that the complainant while appearing as PW1 has reiterated the version put forth in the complaint on the basis of which the FIR was registered, that the learned trial Court ordered summoning of the petitioners to face trial in the aforesaid case as additional accused.

5. Without commenting on the merits of the case, it is deemed appropriate that the petitioners should join the proceedings in the trial Court before deciding the instant petition. Accordingly the petitioners are directed to appear before the learned trial Court within seven days from today and in that event the learned trial Court is directed to admit them on interim bail to its satisfaction, subject to compliance of provisions contained in Section 438 Cr.P.C.

6. List on 15.12.2023.'

6. In compliance of the order dated 24.11.2023, the petitioners have already appeared in Court and furnished the requisite bail bonds, therefore, the criminal liability would be determined by learned Trial Court, once, trial is concluded. Hence, without

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commenting upon the merits of the case, interim bail granted vide order dated 24.11.2023 is hereby confirmed, subject to conditions as envisaged under Section 438(2) Cr.P.C.

7. Further, the petitioners are directed to join investigation as and when required in future by way of written notice for such purpose to be served by Investigating Officer of this case upon the petitioners; they will not tamper with the evidence nor will influence the witnesses and will not leave the country without prior permission of the Court.

8. The petition stands allowed.

9. It is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

15.12.2023
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(SANJIV BERRY)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |