

222 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59011-2023 (O & M)
Date of decision: 16.12.2023

HARPAL

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. J.S. Yadav, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR J. (ORAL)

Through instant petition, the petitioner is seeking anticipatory bail in case FIR No.287 dated 25.10.2023 registered under Sections 379 and 420 of Indian Penal Code at Police Station Nangal Chaudhary, District Mahendergarh.

2. Mr. Pawan Kumar, Advocate has put in appearance on behalf of the complainant and filed his *vakalatnama* which is taken on record.

3. On 23.11.2023, following order was passed:

“The present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 (hereinafter referred to as Cr.P.C) for grant of anticipatory bail to the petitioner in FIR No.287 dated 25.10.2023 registered under Sections 379, 420 IPC at Police Station Nangal Chaudhary, District Mahendergarh.

Learned counsel for the petitioner, inter alia, contends that there is a delay of more than 12 days in registration of the FIR. The petitioner is neither the owner of the vehicle in question nor the mobile number i.e. 9024619545, which is registered with the vehicle concerned belongs to the petitioner. It is further contended that no notice under Section 41A Cr.P.C. has been issued to the petitioner and maximum sentence provided for the offences alleged to be committed in the FIR registered against the petitioner is 7 years. As

such, in view of the ratio of law culled out in the judgment of the Hon'ble Supreme Court in Satender Kumar Antil Vs. CBI (2022) 10 SCC 51, the petitioner is entitled for bail.

Notice of motion.

On the asking of the Court, Mr. Vikas Bhardwaj, AAG, Haryana who is present in Court, accepts notice on behalf of the respondent-State and opposes the prayer for grant of anticipatory bail to the petitioner.

In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi 2020 (1) RCR (Criminal) 833, at the first instance, the petitioner is directed to appear before the Investigating Officer on or before 01.12.2023 and on his doing so or in the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner shall cooperate with the Investigating Officer and abide by the conditions as provided under Section 438 (2) Cr.P.C.

If the Investigating/Arresting Officer does not permit the petitioner to join the investigation, the petitioner would appear before the Illaqa Magistrate, who would then summon the Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 16.12.2023.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court."

4. Learned State counsel on instructions from SI Babu Lal, submits that in compliance of order dated 23.11.2023, passed by this Court, the petitioner has joined the investigation and is not required for further custodial interrogation. Learned State counsel further submits that no notice as required under Section 41-A of Cr.P.C. is served upon the petitioner.

5. As such the petitioner is entitled to grant of anticipatory bail in

view of the law laid down by the Apex Court in *Arnesh Kumar v. State of Bihar (2014) 8 SCC 273* as well as in *Satender Kumar Antil v. Central Bureau of Investigation and Anr. 2022 SCC Online SC 825* as also in *D.K. Basu v. State of West Bengal (1997) 1 SCC 416*.

6. Keeping in view the law laid down in aforementioned judgments and the fact that the petitioner has joined investigation, the order dated 23.11.2023, is hereby made absolute. However, it is made clear that the petitioner shall abide by the terms and conditions enumerated in Section 438(2) Cr.P.C. and shall continue to join investigation as and when called for.

7. The petition is accordingly allowed.

8. 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.

(HARPREET SINGH BRAR)
JUDGE

December 16, 2023
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(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No