

CRM-M-3059-2024 (O&M)
Date of Decision: 14.03.2024

...Petitioner

V/S

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Harish Bhatti, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This petition has been filed under Section 438 of Cr.P.C. seeking anticipatory bail to the petitioner in case bearing FIR No. 485 dated 07.12.2023 registered under Sections 379, 341, 427, 323, 506, 147 and 149 of Indian Penal Code at Police Station Sohana, District Mohali (Annexure P-1).

2. The following order was passed on 20.01.2024:

“The present petition has been filed under Section 438 of Cr.P.C. seeking anticipatory bail to the petitioner in case bearing FIR No.485 dated 07.12.2023 under Sections 379/341/427/323/506/147/149 of IPC registered at Police Station Sohana, District Mohali (Annexure P-1).

Learned counsel for the petitioner inter alia contends that the alleged incident has taken place on 06.05.2023 and the FIR (supra) was registered after a delay of more than seven months. The maximum sentence provided for the offences alleged to have been committed is upto 03 years. He further submits that the petitioner was never served with the notice under Section 41-A of Cr.P.C. 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. Sandeep Kumar, DAG, Punjab who is present in Court, accepts notice on behalf of the respondent-State.

Mr. Vijay Lath, Advocate puts in appearance and files his memorandum of appearance which is taken on record and further undertakes to file his power of attorney on or before the next date of hearing in the Registry of this Court. He vehemently opposed the grant of anticipatory bail to the petitioner on the ground that the petitioner is the main accused and the recovery of tractor trolley used in committing the theft of the articles owned by the complainant is required to be made from 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; Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Mohd. Muslim alias Hussain Vs. State (NCT of Delhi) 2023 SCC OnLine SC 352**, at the first instance, the petitioner is directed to appear before the Investigating Officer within two weeks from today 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/Arresting 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 Investigating/Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 12.02.2024.

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.
To be heard along with CRM-M-570-2024.”

3. When case was taken up on 12.02.2024, learned State counsel submitted that the petitioner has not joined the investigation and direction was issued to the petitioner to appear before the learned Illaqa Magistrate, who would then summon the Investigating Officer and direct him to join the petitioner in investigation in terms of the order dated 20.01.2024 passed by this Court. The petitioner has approached the concerned jurisdictional Magistrate and moved an appropriate application to join the investigation, however, Investigating Officer was not available as he has to put in appearance before the Court of learned Additional Sessions Judge, Patiala in relation to FIR No. 4 of 2019 registered at Police Station Vigilance Bureau.
4. In view of the above, the present petition is disposed of. Petitioner is directed to join the investigation within a period of 02 weeks from today and he shall abide by the terms and conditions enumerated in Section 438(2) of Cr.P.C.

14.03.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No