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2024:PHHC:055127

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

CRM-M-3759-2024

Date of decision : 23.04.2024

Purnmal

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Kartik Khicher, Advocate and
Mr. Ajay Nain, Advocate for the petitioner(s).

Mr. Gaurav Bansal, DAG, Haryana.

Mr. Himanshu Raj, Advocate for the complainant.

PANKAJ JAIN, J. (ORAL)

On 24.01.2024, the following order was passed :-

“Apprehending his arrest in FIR No.876 dated 04.08.2023, registered for offence punishable under Section 379 of IPC at Police Station Hisar Sadar, District Hisar, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

Counsel for the petitioner *inter alia* submits that even if the disclosure statement is taken to be on its face value, the allegation against the petitioner is of having purchased the stolen material which would constitute offence punishable under Section 411 of IPC.

Notice of motion for **23.04.2024**.

Mr. Gaurav Bansal, DAG, Haryana, accepts notice on behalf of the respondent-State.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal and surety bonds to the satisfaction of the arresting officer/ Investigating Officer. As and when called, the petitioner shall join the investigation. He shall abide by the conditions enumerated under Section 438(2) of the Cr.P.C.”

2. Today, Ld. State Counsel on instructions from ASI Ravinder Kumar submits that the petitioner has already joined investigation and is no more required for custodial interrogation.

3. However, Mr. Himashu Raj, Advocate appearing for the complainant has contended that it is the petitioner who is the main conspirator and he ought to have been booked for offence punishable under Section 413 and not offence punishable under Section 411 of the Penal Code.

4. Having heard rival contentions of counsels representing the parties and after going through records of the case, this Court finds that there is no allegation in the FIR to support the allegation that the petitioner is one of the conspirators, leave aside the prime conspirator. Rather as per the contents of the FIR, the main culprits have sold the proceeds of the crime at different places. So far as the question of charging the petitioner for offence punishable under Section 413 and not 411 IPC is concerned, the same is matter of trial and this Court does not deem it fit to comment any further.

3. Without commenting on the merits of the case and in view of the aforesaid fact, order dated 24.01.2024 is made absolute, subject to the conditions as enumerated under Sections 438(2) Cr.P.C.

4. This order should not be treated as "blanket" order. It will not be read granting the petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

5. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency to investigate into the charges against the petitioner.
6. The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.
7. It will be open to the police or the investigating agency to move this Court for a direction under Section 439(2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.
8. Petition stand disposed off accordingly.

April 23, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No