

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
205

CRM-M-5217-2024
Date of decision: 02.04.2024

JASKARAN SINGH

...PETITIONER

V/s

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. S.S. Sarwara, Advocate
for the petitioner.

Mr. Adhiraj Singh Thind, AAG, Punjab.

SUMEET GOEL, J.

1. Present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case bearing FIR No.220 dated 28.07.2023, registered for the offences punishable under Section 376 of IPC and Section 4 of POCSO Act at Police Station City Rajpura, District Patiala.

2. On 01.02.2024, the following order was passed:-

“Apprehending his arrest in FIR No. 220 dated 28.07.2023 registered for offences punishable under Section 376 of IPC and Section 4 of POCSO Act, 2012 at Police Station Rajpura, District Patiala; the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail. Inter alia contends that the petitioner has been falsely implicated on account of a consensual relationship between the petitioner and the victim which was not to the liking of the family members of the victim; relies upon statement made by the victim (copy whereof has been appended as Annexure P-2) as also affidavit dated 28.10.2023 executed by the victim (copy whereof has been appended as Annexure P-3) & the petitioner is willing to join investigation and cooperate therein.

Notice of motion.

On asking of the Court, Mr. Adhiraj Singh, AAG, Punjab appears and accepts notice on behalf of the respondent-State.

Adjourned to 20.02.2024.

The petitioner is directed to appear before the Investigating Officer on 05.02.2024 at 11:00 A.M. in concerned Police Station and join investigation. In the event of arrest, the petitioner shall be released on interim bail subject to his

furnishing personal/surety bond(s) to the satisfaction of the Arresting Officer/Investigating Officer. As and when further called by Investigating Officer, the petitioner shall join the investigation. He shall abide by the condition(s) enumerated under Section 438(2) of the Cr.P.C.”

Thereafter, on 20.02.2024, the following order was passed:-

“Learned State counsel, on instructions from ASI Mahinder Pal, submits that the petitioner has joined investigation but is not cooperating therein. Faced with this situation, learned counsel for the petitioner submits that the petitioner shall rejoin investigation and cooperate therein in accordance with law, The petitioner is directed to appear before the concerned Investigating Officer in the concerned police station on 22.02.2024. at 11:00 A.M. and join investigation. Put up on 26.02.2024. Interim order to continue.”

3. Status report dated 30.03.2024 in the form of an affidavit of Bikramjit Singh Brar, PPS, Deputy Superintendent of Police, Sub-Division Rajpura, District Patiala has been filed on behalf of respondent-State. The same is taken on record. Copy thereof has been supplied to learned counsel for the petitioner. The relevant of the abovesaid status report reads as under:-

“That so far as the affidavit dated 28.10.2023 (Annexure P-3) is concerned, verification of the same was done from Arvind Pal, Advocate and Notary Public, who stated that as per his notary register, the said affidavit is true and he identified his stamp as well as signatures on the affidavit. Furthermore, the investigating officer visited the house of the prosecutrix on 16.03.2024, 20.03.2024 and 25.03.2024 to verify the aforesaid affidavit but she was not found present at her house and written parwanas/intimations were given to the mother of the prosecutrix/complainant who also gave a written statement to ASI Mahinderpal that the prosecutrix was not in contact with her or her family members and she had no information regarding her whereabouts.”

4. Learned State counsel, on instructions from ASI Mahinder Pal, has stated that pursuant to the order dated 01.02.2024, the petitioner has joined investigation and is no longer required for custodial interrogation.

5. In view of above, the present petition is allowed and interim order dated 01.02.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

6. This order should not be treated as “blanket” order. It will not be read granting 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.
7. Liberty is reserved in favour of State/complainant to move for cancellation/recall of this order in case the petitioner violates any condition stipulated under Section 438(2) Cr.P.C., 1973 or upon showing any other sufficient cause.
8. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.
9. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

April 02, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No