

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S No.334 of 2023 (O&M)
Date of decision: 28th February, 2024

Gokul Setia

... Appellant

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Arpandeeep Narula, Advocate for the appellant.
Mr. Rajesh Gaur, Addl. Advocate General, Haryana
for the respondent/State.
None for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

1. The appellant is seeking the concession of bail under Section 438 Cr.P.C. in case FIR No.29 dated 11.1.2023 under Sections 323, 342, 332, 353, 506 read with Section 34 IPC and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989 Police Station City Sirsa.

2. On 03.02.2023, while noticing the following submissions made by learned counsel for the appellant, a Coordinate Bench of this Court had granted the concession of interim bail to the appellant and asked him to join investigation.

“The counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in this case at the instance of the complainant, who is employee of Municipal Committee and took `5,000/- from one Manoj Kochhar on the

pretext of getting his work done. The counsel for the petitioner further submits that the petitioner never used any abusive language against the caste of the complainant and did not refrain any one from doing his official duty. The counsel for the petitioner while referring to photographs Annexure A-3 collectively submits that, it is clear that at the time of alleged occurrence DSP Dharamvir, Additional Station House Officer Raj Bala, Estate Officer and some other Government officials were present at the spot. In case, any such occurrence as alleged by the complainant had actually happened then the aforesaid police officials would have immediately taken action in accordance with law to arrest the petitioner, thus falsifying the entire prosecution story. The counsel for the petitioner further submits that from the perusal of the aforesaid photographs it appears that complainant returned amount of `5,000/- (i.e. illegal gratification) in presence of the aforesaid police and government officials.

*The counsel for the petitioner further submits that now the police intends to arrest the petitioner without following the mandatory provisions of Section 41-A Cr.P.C. as all the offences are punishable with punishment not extending to 7 years and the police cannot arrest the petitioner without following the guidelines issued by the Hon'ble Supreme Court in **Arnesh Kumar vs. State of Bihar, (2014)8 SCC 273.***

The counsel for the petitioner further submits that in the present case the complainant is unable to make out a prima facie case and as such the bar provided in Section 18 and Section 18-A of the Act of 1989 is not applicable.

The counsel for the petitioner further submits that the petitioner is a respectable person and is ready to join investigation with the police.”

3. Learned counsel for the appellant, at the outset, has submitted that the learned trial Court vide order dated 06.09.2023 has granted the concession of regular bail to the petitioner. In support, he has placed on record a copy of order dated 06.09.2023 passed by the learned trial Court.
4. Learned State counsel, on instructions, does not dispute the factum of the petitioner having been granted the concession of regular bail by the learned trial Court.
5. In the circumstances, the petition is allowed and the interim order dated 03.02.2023 is made absolute.

(MANJARI NEHRU KAUL)
JUDGE

February 28, 2024
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No