

CRM-M-7042-2024
Date of decision: 14.03.2024

Rafik Mohammad alias Jagga KhanPetitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rahul Soi, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in cross case registered vide GD No.017 dated 12.02.2021 under Sections 323/325/34 of IPC and further enhancement vide GD No.013 dated 03.02.2022 under Sections 459/148/149 of IPC in case bearing FIR No.35 dated 04.06.2020 under Section 326-A of IPC registered at Police Station Bakshiwala, District Patiala.

On 09.02.2024, the following order was passed:-

'The present petition has been filed under Section 438 of the Code of Criminal Procedure (hereinafter referred to as Cr.P.C) for grant of anticipatory bail to the petitioner in G.D. No.017 dated 12.02.2021 registered under Sections 323, 325, 34 IPC and further enhancement vide GD No.013 dated 03.02.2022 under Sections 459, 148, 149 IPC in FIR No.35 dated 04.06.2020 under Section 326-A IPC registered at Police Station Bakshiwal, District Patiala.

Learned counsel for the petitioner, inter alia, contends that it is a case of version and cross-version. The petitioner has been implicated in the cross-version after a delay of eight months and the alleged

occurrence in the FIR was registered against the complainant, who is the accused in the version case. Thereafter, a supplementary statement was made on 03.02.2022 i.e. after a delay of more than 1 year 8 months of the alleged incident by Jagtar Singh on the basis of which offences under Sections 459, 148, 149 IPC have been added. Even in the supplementary statement, no role or injury has been attributed to the petitioner.

Notice of motion.

On the asking of the Court, Mr. Subhash Godara, Addl. A.G., Punjab, 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; 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 on or before 16.02.2024 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 14.03.2024.

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. '

Learned State counsel on instructions from ASI Gurnaik Singh, at the very outset informs the Court that the petitioner has joined the investigation and his custodial interrogation is not required.

In view of the statement of learned State counsel, order dated 09.02.2024 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 438(2) Cr.P.C.

The petition stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

14.03.2024
Neha

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