

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-6910 of 2024
Date of Decision: March 13, 2024

Manish @ Baniya

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARPREET SINGH BRAR

Present : Mr. Narender Kaajla, Advocate
for the petitioner

Ms. Geeta Sharma, DAG Haryana

Harpreet Singh Brar, J. (Oral)

1. Prayer in the petition under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.546 dated 07.10.2023 registered under Sections 148, 149, 384, 452, 506 IPC at Police Station City, Fatehabad.

2. 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 FIR No.546 dated 07.10.2023 registered under Sections 148, 149, 384, 452, 506 IPC at Police Station City, Fatehabad.

Learned counsel for the petitioner, inter alia, contends that the petitioner has absolutely no concern with the present case and he has been nominated in the present case only on the basis of disclosure statement made by the co-accused while in police custody, which has no evidentiary value in the eyes of law. The maximum sentence provided for the offences alleged to be

*committed in the FIR registered against the petitioner is upto 7 years and no notice under Section 41A Cr.P.C. has been issued to him. 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. It is further contended that similarly situated co-accused has been granted concession of interim bail vide order dated 16.01.2024 passed in CRM-M No.2232 of 2024 titled as Jayant Kumar Vs. State of Haryana.*

Notice of motion.

On the asking of the Court, Ms. Geeta Sharma, DAG, Haryana, 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 13.03.2024.

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. ”

3. Learned State counsel, on instructions from SI Om Parkash, states that pursuant to order dated 09.02.2024, the petitioner has joined the investigation and is no more required for custodial interrogation.

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

5. Petition stands disposed of.

6. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and trial court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

March 13, 2024

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No