

CRM-M-8327-2024
Date of decision: 19.03.2024

Mohan LalPetitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ishan Thakur, Advocate for
Mr. L.S. Sidhu, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Gagandeep Singh, Advocate for
Mr. Arshdeep Singh Brar, Advocate
for the complainant.

HARPREET SINGH BRAR, J. (ORAL)

This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in case bearing FIR No.20 dated 02.02.2024 under Sections 381/411/120-B of IPC registered at Police Station City South, Moga, District Moga.

On 16.02.2024, 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.20 dated 02.02.2024 registered under Sections 381, 411, 120-B IPC at Police Station City South, Moga, District Moga.

Learned counsel for the petitioner, inter alia, contends that all the allegations levelled in the FIR (supra) are against the wife of the petitioner and there is nothing on record to suggest that the petitioner has any nexus whatsoever with the alleged theft. The petitioner is

*having clean antecedents. It is further contended that maximum sentence provided for the offences alleged to be committed in the FIR registered against the petitioner is less than 7 years. It is further contended that no notice under Section 41A Cr.P.C. has been issued to the petitioner and 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.*

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.

At this stage, Mr. Arshdeep Singh Brar, Advocate has put in appearance on behalf of the complainant and files his vakalatnama, which is taken on record. He vehemently opposes the prayer for grant of anticipatory bail to the petitioner by contending that complicity of the petitioner is writ large as he is beneficiary of the theft committed by his wife.

*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 23.02.2024 and on her 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 19.03.2024.

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 Varinder Kumar, 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 16.02.2024 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

19.03.2024
Neha

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