

2024:PHHC:052961

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CRM-M-12629-2024
Date of decision : 18.04.2024

Gurwinder Singh @ Kala Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rajdeep Singh Gill, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. While issuing notice of motion on 12.03.2024, following order was passed:-

“The instant 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.28 dated 06.02.2024 registered under Sections 420, 406, 120-B IPC at Police Station Jhunir, District Mansa.

Learned counsel appearing for the petitioner *inter alia* contends that genesis of the dispute is purely civil in nature and the petitioner has been falsely implicated in the present case. Admittedly, the land owned by mother of the complainant was taken on lease by the petitioner and he has paid part payment of the lease money. However, due to damage of the crop, he could not pay the remaining amount. It is further contended that the maximum punishment provided for the offence alleged to be committed in the FIR (supra) is upto 7 years and no notice under Section 41-A

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Cr.P.C. was served upon the petitioner. As such, in view of the ratio of law culled out in the judgment rendered by 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.

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, petitioner is directed to appear before the Investigating Officer on or before 19.03.2024 and on his doing so or in the event of arrest, 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 18.04.2024.

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.”

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2. Today, learned State counsel, on instructions from ASI Daler Singh, has stated that pursuant to the order dated 12.03.2024, the petitioner has joined investigation and is no longer required for custodial interrogation.

3. In view of above, the interim order dated 12.03.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

4. 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.

5. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the petitioner.

6. The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.

7. It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

8. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

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9. Disposed off accordingly.

(PANKAJ JAIN)
JUDGE

18.04.2024

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Whether speaking/reasoned : Yes

Whether Reportable : No