

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-14427-2024
Date of decision: 20.04.2024

BALVIR KUMAR @ BINTA
....PETITIONER

VERSUS

STATE OF PUNJAB
....RESPONDENT

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Gaurav Rana, Advocate for the petitioner.
Mr. Japjot Singh, AAG, Punjab.

SANJIV BERRY, J.(ORAL)

By way of present petition filed under Section 438 of Code of Criminal Procedure, 1973, petitioner seeks anticipatory bail in case FIR (Annexure P-1) as under:

FIR No.	Dated	Sections	Police Station
25	23.02.2024	294-A of IPC, 13-A of Gambling Act, 1867 and Section 7(3) of Lotteries (Regulation) Act, 1998.	Division No.5, Police Commissionerate, Ludhiana.

2. Learned counsel for the petitioner submits that in compliance to the order dated 20.03.2024 passed by this Court, the petitioner has already joined the investigation and as such prayed for confirming the interim bail granted vide order dated 20.03.2024.
3. Learned State counsel, on instructions from ASI Om Parkash, intimates that the petitioner had joined the investigation in the case and is no more required for any custodial investigation in this case nor he is required for further investigation.

CRM-M-14427-2024

2

4. During the course of hearing on 20.03.2024, 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.25 dated 23.02.2024 registered under Sections 294-A, 13-A Gambling Act, 1867 and Section 7 (3) of Lotteries (Regulation) Act, 1998 at Police Station Division No.5, Police Commissionerate, Ludhiana.

*Learned counsel appearing for the petitioner inter alia contends that he has been falsely implicated in the present case. The maximum punishment provided for the offence alleged to be committed in the FIR (supra) is less than 3 years and no notice under Section 41-A 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 on the ground that he is habitual offender and involved in three more cases.

*In view of the law laid down by the Hon’ble Supreme Court in **Prabhakar Tewari vs. State of Uttar Pradesh (2020) 11 SCC 648**, pendency of other criminal cases cannot be sole ground for rejection of the bail application and 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*

CRM-M-14427-2024

3

Investigating Officer on or before 28.03.2024 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 20.04.2024.

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.”

5. Keeping in view the respective submissions made by learned State counsel and considering the fact that the petitioner had already joined the investigation and is no more required for further investigation nor he is required for any custodial interrogation, interim bail granted vide order dated 20.03.2024, is hereby confirmed, subject to conditions as envisaged under Section 438(2) Cr.P.C. Further, the petitioner is directed to join investigation as and when required in future by way of written notice for such purpose to be served by Investigating Officer of this case upon the petitioner; he will not tamper with the evidence nor will influence the witnesses and will not leave the country without prior permission of the Court.

6. The petition stands allowed.

CRM-M-14427-2024

4

7. It is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(SANJIV BERRY)
JUDGE

20.04.2024
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |