

2024:PHHC:055609

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-17245-2024 (O&M)
Date of decision: 24.04.2024

Sahil Adhana

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Prashant Singh Chauhan, Advocate, for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Bhuwnesh Lakhera, Advocate for the complainant.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case bearing FIR No.63 dated 20.02.2024, registered for the offences punishable under Sections 376(2)(n), 323 and 506 of IPC (Section 25 of the Arms Act, 1959 added later on) at Police Station Model Town Rewari, District Rewari.

2. Status report by way of affidavit of Sh. Ashish Choudhary, HPS, Deputy Superintendent of Police, Traffic Rewari, District Rewari has been filed in Court today by the learned State counsel. The same be kept on record. A copy thereof has been supplied to learned counsel for the petitioner.

3. On 08.04.2024, the following order was passed:-

“Apprehending his arrest in FIR No.63 dated 20.02.2024 registered for offences punishable under Sections 376(2)(n), 323 and 506 of IPC (Section 25 of the Arms Act, 1959 added later

on) at Police Station Model Town Rewari, District Rewari, Haryana; the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

Inter alia contends that the petitioner and the complainant were in a consensual relationship which turned sour later on due to supervening circumstances; the petitioner and the victim were even living together in a rented accommodation which is reflected from the rent agreement (copy whereof has been appended as Annexure P-2); the victim/complainant had earlier also got one FIR lodged under Section 498-A/376 of IPC etc wherein allegations of rape raised by the victim/complainant were found to be incorrect & petitioner is willing to join investigation and cooperate therein.

Notice of motion.

On asking of the Court, Mr. S.K. Panwar, Addl. A.G., Haryana, appears and accepts notice on behalf of the respondent-State. Mr. Bhuwnesh Lakhera, Advocate has appeared and filed power of attorney on behalf of complainant. The same is taken on record.

Adjourned to 24.04.2024.

The petitioner is directed to appear before the Investigating Officer on 11.04.2024 at 11:00 A.M. in concerned Police Station and join investigation. In the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal/surety bond(s) to the satisfaction of the Arresting Officer/Investigating Officer. As and when further called by Investigating Officer, the petitioner shall join the investigation. He shall abide by the condition(s) enumerated under Section 438(2) of the Cr.P.C.”

4. Learned State counsel, on instructions from ASI Papita, has raised argument in tandem with the status report filed in the Court today. Learned State counsel has submitted that the petitioner has joined investigation in terms of the interim order passed earlier by this Court but is not cooperating therein for recovery of the pistol in question.

5. Learned counsel for the complainant has vehemently opposed the grant of anticipatory bail to the petitioner by arguing that the allegations made against the petitioner are serious in nature and hence the petitioner ought not to be extended the concession of anticipatory bail.

6. In the considered opinion of this Court, the allegations of non-cooperation by the petitioner resulting into alleged non-recovery of the pistol stated to have been used for commission of the offence cannot be a ground for rejection of anticipatory bail especially when the petitioner has joined investigation and cooperating with the Investigating officer on all other counts.

In view of above, the present petition is allowed and interim order dated 08.04.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

7. 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.

8. Liberty is reserved in favour of State/complainant to move for cancellation/recall of this order in case the petitioner violates any condition stipulated under Section 438(2) Cr.P.C., 1973 or upon showing any other sufficient cause.

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

10. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

April 24, 2024
poonam

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