



IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRM-M-17688-2024  
Date of decision: 03.07.2024

OMBIR AND ANOTHER ....Petitioner

Versus

STATE OF HARYANA ...Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present: - Mr. Gurpreet Singh, Advocate for  
Mr. Ramnish Puri, Advocate for the petitioners.  
  
Mr. Surender Singh, AAG, Haryana.

SANJIV BERRY, J. (ORAL)

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

| FIR No. | Dated      | Sections                                                      | Police Station             |
|---------|------------|---------------------------------------------------------------|----------------------------|
| 250     | 20.10.2022 | 302, 307, 341 of IPC and Section 25 and 27 of Arms Act, 1959. | Pillukhera, District Jind. |

2. Learned counsel for the petitioners has placed on record the copy of the order dated 24.05.2024 passed by learned Additional Sessions Judge, Jind, to submit that in compliance to the order dated 21.05.2024 passed by this Court, the petitioners had appeared in the trial Court and furnished the requisite bail bonds/surety bonds.
3. Learned State counsel has not controverted this aspect.
4. During the course of hearing on 21.05.2024, following order was passed:



“3. *Heard.*

4. *It is inter alia contended that the case put forth by learned counsel for the petitioners is that the petitioners were also named in the FIR but were found innocent during investigation and while presenting the challan under Section 173 Cr.P.C., the petitioners were kept in Column of the persons not challaned. He further contends that during the course of trial against the other co-accused on the application moved by the complainant, the learned trial Court vide order dated 13.03.2024 (Annexure P-7) had summoned the petitioners to face trial by allowing the application under Section 319 Cr.P.C. He submits that the petitioners had earlier joined investigation before the presentation of challan and is still ready to face the trial.*

5. *Learned State counsel as well as learned counsel representing the complainant has although not disputed the factual matrix but submitted that the presence of petitioner - Ombir on the spot is even mentioned in the inquiry report and having participated in the occurrence, he deserves no concession of bail.*

6. *After considering the rival contentions and perusing the record and also the reply submitted by the State, it is not disputed that the petitioners were named in the FIR but during investigation, they were exonerated and were not challaned by the police. The challan was presented under Section 173 Cr.P.C. only qua the co-accused and during the course of trial thereof, the learned Additional Sessions Judge, Jind, conducting the trial on application under Section 319 Cr.P.C. has summoned the petitioners to face the trial vide order dated 13.03.2024 (Annexure P-7). Admittedly, the petitioners had joined the investigation prior to presentation of challan so their custodial interrogation is not required. The*



*petitioners are ready to face the trial in compliance to the order dated 13.03.2024 (Annexure P-7).*

7. *In these circumstances, without commenting on the merits of the case, the petitioners are directed to appear in the trial Court/Duty Magistrate on or before the next date of hearing i.e. 04.06.2024 and in the event of their arrest, they are ordered to be released on interim bail on their furnishing personal/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.*

8. *List on 03.07.2024.”*

5. It is evident from the record that the petitioners were initially not challaned while presenting the challan under Section 173 Cr.P.C. by the police and were kept in Column No.2. However, during the course of trial, on the application moved under Section 319 Cr.P.C., the petitioners were summoned by learned trial Court vide order dated 13.03.2024 (Annexure P-7). The challan already stood presented and trial is going on. Therefore, the custodial interrogation of the petitioners is not required. The petitioners have already joined the proceedings in the trial Court and had been granted concession of interim bail vide the aforesaid order.

6. Keeping in view the above submissions made by learned State counsel and the fact that the petitioners had appeared before the learned trial Court in compliance of the order dated 21.05.2024 passed by this Court, and furnished requisite bail/surety bonds and that the petitioners have been summoned by learned trial Court to face trial under Section 319 Cr.P.C. Consequently, interim bail granted vide order dated 21.05.2024 is hereby confirmed, subject to conditions as envisaged under Section 438(2) Cr.P.C. Further, they will not tamper with the evidence nor will influence



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the witnesses and will not leave the country without prior permission of the Court.

7.           The petition stands allowed.
8.           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

03.07.2024  
kanika

- i)

Whether speaking/reasoned?

Yes/No
- ii)

Whether reportable?

Yes/No