

106

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20536-2024
Date of Decision:26.04.2024

Gopi Chand Chaudhary

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Mohit Rathee, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Addl. AG, Haryana (Through VC).

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
12	29.06.2022	State Vigilance Bureau, Hisar	120-B, 406, 418, 467, 468, 471 IPC and 13(1)(c)& 13(1)(d) of Prevention of Corruption Act 1988

Seeking fifteen days' advance notice in case the investigator proposes to arrest the petitioner in the FIR captioned above, the petitioner has come to this Court by filing the present petition under Section 482 CrPC.

2. Counsel for the State submits that they do not need to file any formal response as the present petition is not maintainable in the present form. He further opposes the maintainability of the present petition because if the petitioner is apprehending arrest, then the statutory remedy lies under 438 CrPC.
3. Counsel for the petitioner submits that this Court had granted similar relief to Padam Kumar Bansal vide order dated 06.09.2023 passed in CRM-M-15824-2023. In the said order, it was clarified that if an investigator proposes to arrest the petitioner, the petitioner must be given one week's advance notice.
4. Counsel for the State submits that the petition of Padam Kumar Bansal was filed for quashing of FIR itself, and when this Court was not inclined to grant a stay, then on the request of the petitioner, who was apprehending arrest, such order was passed and the said order was also valid only till the next date, i.e., 08.11.2023, as such the said order was not permanent.

5. An analysis of the above arguments would lead to the outcome that the limited prayer is for the issuance of advance notice of 15 days to the petitioner in case the investigator proposes to arrest him. The reasons mentioned for such a unique prayer are that, as of the date, the petitioner is not apprehending arrest, but if his apprehension turns true, it can put the petitioner through unnecessary harassment. Such an approach is not permissible because the petitioner can seek legal advice, and if he has a bit of apprehension, he can always resort to Section 438 CrPC. It is clarified that in case the petitioner files a petition under Section 438 CrPC and the investigator takes the stand that they do not propose to arrest him, then indeed, in such a situation, this Court can give directions to the investigator to inform him about his intention not to arrest so that they cannot later play tricks on person's liberty and operate secretly by initially taking a stand that they do not intend to arrest and after withdrawal of such petition discreetly knocking at their doors at midnight to curtail their liberty.

6. In the given facts, it shall be permissible for the present petitioner to straightway come to this Court under Section 438 CrPC if he so desires, with a clarification that the petitioner shall not claim any prejudice in this regard and shall not claim that he had lost an opportunity by using concurrent jurisdiction of this Court which was also a supervisory jurisdiction under Article 227 of Constitution of India. This is a statutory right of the petitioner that should be respected.

7. Given the above, the present petition is disposed of in the terms mentioned above. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

26.04.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: YES.