



201

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20693-2024 (O&M)
Date of decision: 27.05.2024

Sandeep Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Harsh Jain, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in case bearing FIR No.105 dated 16.02.2024 under Section 376(2)(n) of the Indian Penal Code, 1860, registered at Police Station Gurgaon Sadar, District Gurugram (Haryana).

2. On 26.04.2024, the following order was passed:-

“The present petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in case bearing FIR No.105 dated 16.02.2024 under Sections 376(2)(n) of IPC registered at Police Station Gurgaon Sadar, District Gurugram (Haryana).

Learned counsel for the petitioner inter alia contends



that the petitioner and the complainant were in a consensual relationship out of love and affection for each other and their relationship was opposed to the family of the complainant due to caste and status concerns and in the month of October, 2023, complainant sought the help of the petitioner to escape from her forced engagement. Both of them, being major, consciously eloped and got married at Aarya Samaj Mandir, Delhi and marriage certificate is on the record as Annexure P-2. It is further contended that the complainant has signed the voluntary consent and self-declaration and appeared before the Oath Commissioner for attestation as discernible from Annexures P-3 & P-4. The photographs and WhatsApp chats are also available on record. As such, the FIR (supra) is not sustainable in the eyes of law and the petitioner has been falsely implicated in the present case.

Notice of motion.

On the asking of the Court, Ms. Geeta Sharma, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent-State.

*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; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi 2020 (1) RCR (Criminal) 833**, at the first instance, the petitioner is directed to appear before the Investigating Officer within two weeks from today and on his doing so or in the event of arrest, the 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/Arresting 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 Investigating/Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.



Adjourned to 27.05.2024.

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.”

3. Learned State counsel, on instructions from ASI Sonika, at the very outset, informs the Court that the petitioner has joined the investigation and his custodial interrogation is not required. However, he failed to get recover the mobile phone, which was used in the crime.

4. In view of the statement of learned State counsel, order dated 26.04.2024 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 438(2) Cr.P.C. and he shall continue to join the investigation as and when called and shall fully cooperate.

5. The petition stands disposed of.

[HARPREET SINGH BRAR]
JUDGE

27.05.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No