



209 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-22342-2024
Date of decision: 10th July, 2024

Gurpreet Singh
Versus
State of Punjab
...Petitioner(s)
...Respondent(s)

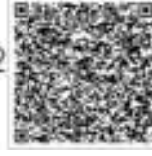
CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. S.S. Sidhu, Advocate for the petitioner.
Mr. A.S. Samra, AAG, Punjab.
Mr. I.S. Kooner, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

The instant petition has been filed under Section 438 of Cr.P.C. seeking pre-arrest bail in case arising out of FIR No. 50 dated 28.03.2024 registered under Sections 304-A and 273 of IPC, 1860 at Police Station Anaj Mandi, Patiala.

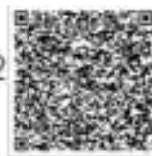
2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on 28.03.2024 on the basis of complaint lodged by the complainant Kajal alleging therein that on 24.03.2024, she had online ordered a cake through food delivery application namely *Zomato* for celebrating the birthday of his daughter Manavi. The cake was cut in the evening. Her daughters as well as other family members alongwith herself had eaten the same. At about 11:00 PM, the health of both daughters of the complainant as well as other family



members had started deteriorating. Her daughters Manavi and Preman had vomited. At about 12:00 PM, Manavi had vomited again and then all of them had slept. Froth came out of mouth of Manavi when she vomited for second time. In the morning at about 4:00 AM on getting up, the complainant found her daughter Manavi to be in critical condition lying cold in the bed. She was rushed her to the hospital but was declared to be brought dead. She alleged that the cake which was ordered from the shop named as 'Cake Kanha' situated at Adalat Bazar, Patiala contained some poisonous substance which led to death of her daughter and prayed for taking action. A case under Section 273 and 304-A of IPC was registered. Investigation proceedings have been initiated. The petitioner was nominated as an accused being the owner of the bakery in question. Apprehending his arrest, he moved an application for pre-arrest bail before Additional Sessions Judge, Patiala which was dismissed vide order dated 10.04.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is owner of a bakery known as India Bakery and has no concern with the bakery in question i.e. M/s Cake Kanha. As per the FSL report, the cake contained excessive sugar i.e. sachharin but no poisonous substance has been detected in the same. The cake was ordered through *Zomato* App from Cake Kanha and not from the firm owned by the petitioner. His custodial interrogation is not required. He has already joined the investigation. No recovery is to be effected from him. Therefore, it is argued that he deserves to be extended benefit of anticipatory bail.

4. On 22.05.2024, the following order was passed by this Court



which is reproduced as under:-

“ In compliance of order dated 13.05.2024, learned State counsel has placed on record the report of Chemical Examiner, which demonstrates that no poison was detected in the sample of the preservative.

Learned counsel for the petitioner reiterates his arguments as recorded in the order dated 13.05.2024 and submits that the petitioner has clean antecedents and no recovery has to be effected from him and he shall sincerely cooperate in the investigation, as he re-asserts that it is not the cake sent by the petitioner which caused the death as had it been the case, the health of other family members who had consumed the same cake should also have been impacted, which is not the case.

Learned counsel for the complainant vehemently opposes the grant of any concession to the petitioner and submits that the one sister of the deceased also fell sick after consuming the said cake.

However, in light of the report received and the fact that the matter can be investigated without the custodial interrogation of the petitioner, he is granted the concession of anticipatory bail. The petitioner is directed to join investigation on 30.05.2024 at 10:00 A.M. before the Investigating Officer and cooperate with the Investigating Agency even thereafter.

In the event of arrest, the petitioner be released on interim bail subject to furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer and the petitioner shall abide by the conditions as envisaged under Section 438 (2) Cr.P.C.

However, it is made clear that this order shall not be construed as parity qua any other co-accused.

Adjourned to 10.07.2024.”

5. Learned State counsel has submitted that the petitioner has joined investigation on 30.05.2024. A cancellation report has been prepared which is presently lying with the superior police authorities and will shortly be presented before the trial Court. It is also submitted that custodial interrogation of the petitioner is not required.

6. Learned counsel for the complainant also which was dismissed no objection if the petition is allowed.



7. In view of the said facts, without commenting on the merits of the case, the present petition is allowed and the order dated 22.05.2024 granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

[MANISHA BATRA]
JUDGE

10th July, 2024
Parveen Sharma

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|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |