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CRM-M-27501-2023
Date of decision: 18.01.2024

....Petitioner.

....Respondent.

Present:- Ms. Shaveta Sanghi, Advocate,
for Mr. Aditya Sanghi, Advocate,
for the petitioner.

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SANJIV BERRY, J. (ORAL)

1. By way of present petition filed under Section 438 Cr.P.C, the petitioner seeks anticipatory bail in case FIR (Annexure P-2) as under: -

FIR No.	Dated	Sections	Police Station
214	03.10.2020	380, 454, 411 IPC	Rampura District Rewari, Haryana

2. Learned counsel for the petitioner submits that in compliance to the order dated 02.06.2023, the petitioner has joined the investigation.

3. Learned State counsel, on instructions, informs the Court that the petitioner has joined the investigation but he has not co-operated as the recovery is to be effected from him.

4. During the course of hearing on 02.06.2023, following order was passed: -

“The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.214 dated 03.10.2020 registered under Sections 380, 454 and 411 of the Indian Penal Code, 1860 at Police Station Rampura, District Rewari.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case on the basis of disclosure statement made by co-accused Raju, Birender and Rajesh, which is a very weak type of evidence. The petitioner has not committed any offence as alleged in the FIR. Co-accused Raju, Birender and Rajesh, who had stolen the gold and silver ornaments from the house of the complainant, have already been granted bail by the trial Court vide order dated 30.10.2020. Nothing is to be recovered from the petitioner and his custodial interrogation is not required in the case. The petitioner is already ready and willing to join the investigation.

Learned State counsel seeks time to file reply.

Adjourned to 18.08.2023.

In the meanwhile, the petitioner is directed to join the investigation and appear before the Investigating Officer within 10 days from today and on his doing so, the petitioner shall be released on interim anticipatory bail subject to his furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) of the Cr.P.C.”

5. From the perusal of the record, it transpires that the allegations against the petitioner in the present case is on the basis of disclosure statement made by the co-accused, namely Raju, Birender and Rajesh and that they had sold the stolen articles to the petitioner. The evidentiary value of such statement is debatable. The petitioner has joined the investigation in compliance to the order dated 02.06.2023, the criminal liability, if any, of the petitioner could only be ascertained during the course of trial and it will be premature, at this stage, to claim that the petitioner having not co-operated in getting the recovery of such articles effected on the basis of the alleged disclosure statement of the aforesaid co-accused.

6. Therefore, in the aforesaid circumstances without commenting on the merits and further the fact that the petitioner had joined the investigation consequent to the order dated 02.06.2023 passed by this Court, interim bail granted vide order dated 02.06.2023 is hereby confirmed, subject to conditions as envisaged under Section 438(2) Cr.P.C. Further the petitioner is directed to join investigation as and when required in future by way of written notice for such purpose to be served by Investigating Officer of this case upon the petitioner; he will not tamper with the evidence nor will influence the witnesses and will not leave the country without prior permission of the Court.

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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.

18.01.2024
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(SANJIV BERRY)
JUDGE

- i) Whether speaking/reasoned?

Yes/No
- ii) Whether reportable?

Yes/No