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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-2319-2023 (O&M)
Date of Decision: 15.01.2024

KAMAL

.. Appellant

Vs.

STATE OF PUNJAB AND ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Karanjeet Singh Brar, Advocate for the appellant.

Mr. Adhiraj Singh Thind, AAG, Punjab.

Mr. Anoop Verma, Advocate
for the complainant.

...

SUMEET GOEL, J. (Oral)

1. On 24.08.2023, the following order was passed:-

The present appeal has been filed by the appellant for setting aside the impugned order dated 19.07.2023 passed by learned Additional Sessions Judge, Fast Track Special Court (POCSO) Fazilka, whereby, bail filed by the appellant has been dismissed.

Learned counsel for the appellant inter alia submits that FIR in present case had been registered on 30.03.2023, wherein the appellant has not been named. He further submits that even in the statement recorded under Section 164 Cr.P.C. on 18.04.2023 of the victim, the appellant has not been named, however, presence of an unknown person has been mentioned by her. It is submitted that thereafter, a supplementary statement was recorded by the victim by way of DDR No.48 dated 9.05.2023 in which also the appellant has not been named and it has only been stated that the main accused- Amit Kumar was accompanied by an unknown person. It is only in the second supplementary statement bearing DDR No.45 dated 12.05.2023, that the appellant has been named and the offence under Section 3 of SC & ST Act, has been added. It is further submitted that appellant is ready to join the investigation.

Notice of motion.

At the asking of the Court, Ms. Kanica Sachdeva, AAG, Punjab accepts notice on behalf of the respondent-State and opposes the prayer for grant of anticipatory bail and submits the very fact that the appellant has been named in the second supplementary statement which shows his presence at the place of occurrence, therefore, anticipatory bail may not be granted to the petitioner.

In the meantime, the petitioner is directed to appear before the SHO/Investigating Officer to join investigation and in the event of his arrest, he shall be released on interim bail on his furnishing bail bonds to the satisfaction of SHO/Investigating Agency subject to the following conditions as envisaged under Section 438(2) Cr.P.C.:-

- 1. that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required;*
- 2. that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;*
- 3. that the petitioner shall not leave the country, without prior permission of the Court and shall surrender his passport, if any.*

Adjourned to 03.11.2023.

Meanwhile, State counsel is directed to file an affidavit/status report as to the exact role of the petitioner alongwith the details of pending FIRs, if any, on or before the next date of hearing.

2. Thereafter, on 17.11.2023, the following order was passed:

“This application has been filed by the petitioner for adding offences under Sections 363, 366A and 354D of IPC on the ground that these offences have been added later on after filing of this appeal.

Due to the circumstances explained in the application, the same is allowed and aforementioned offences are ordered to be mentioned in the head note as well as prayer clause of the main appeal.

Since vide order dated 24.08.2023 passed by this Court, direction had already been given to the petitioner to join the investigation of this case. Therefore, direction is being given to the petitioner through his counsel as well as Investigating Officer i.e. ASI-Rajbir Singh, who is present in the Court, to join the petitioner in the investigation qua the commission of offences which have been added later on as mentioned above, within a period of 4 days and thereafter as and when required.

- Application stands disposed of.”*
3. Learned State counsel on instructions from ASI Ramesh Kumar has stated that pursuant to the orders dated 24.08.2023 and 17.11.2023, the appellant has joined investigation and is no longer required for custodial interrogation.
4. In view of above, the interim orders dated 24.08.2023 and 17.11.2023 passed by this Court are made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.
5. These orders should not be treated as “blanket” orders. It will not be read granting appellant indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.
6. Liberty is reserved in favour of State/complainant to move for cancellation/recall of these orders in case the appellant violates any condition stipulated under Section 438(2) Cr.P.C., 1973 or upon showing any other sufficient cause.
7. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.

15.01.2024

(SUMEET GOEL)
JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No