

2024:PHHC:016201

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

211

CRM-M-39733-2023

Date of decision:06.02.2024

Narender Mudgil

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.Rahul Rana, Advocate, for the petitioner.

Mr.Hemant Aggarwal, AAG, Punjab.

Mr. Chander Shekhar Singhal, Advocate for
Mr. Pushpinder Kaushal, Advocate for the complainant.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case bearing FIR No.201, dated 01.09.2019, registered for the offences punishable under Sections 376, 452, 506 (Section 376(2) of IPC added later on) at Police Station City Kharar, District S.A.S., Nagar (Mohali).

2. On 20.11.2023, the following order was passed:-

"1. Present petition is under Section 438 Cr.P.C. for seeking anticipatory bail to the petitioner in case FIR No.201 dated 01.09.2019, registered under Sections 376, 452, 506 and 376 (2) IPC (added later on) registered at Police Station City Kharar, District S.A.S. Nagar (Mohali).

2. The status report has not been submitted by the State despite the fact that adjournment was granted for a period of more than three months.

3. The learned counsel for the petitioner contends that primarily the allegations were levelled against Aman Modgil co-accused,

who is the brother of the petitioner. The prosecutrix was aged more than 18 years at the time of occurrence. During the course of investigation, the petitioner was found innocent and the challan was presented only against Aman Modgil. The petitioner has been summoned under Section 319 Cr.P.C. by the learned trial Court in terms of the order dated 03.07.2023. Aman Modgil, the brother of the petitioner has been granted regular bail by the trial Court in terms of the order dated 30.09.2019. The next date of hearing in the trial Court is stated to be 20.12.2023.

4. Learned State counsel on the instructions from ASI Kulwinder Singh submits that during the course of investigation, the petitioner was found innocent.

5. The learned counsel for the prosecutrix has opposed the prayer of bail by submitting that there are categoric and specific allegations levelled against the petitioner in the FIR and in the statement of the prosecutrix recorded during the course of trial.

6. Be that as it may, the petitioner was found innocent during the course of the investigation and has been summoned on the application under Section 319 Cr.P.C. Moreover, the co-accused is on bail.

7. In these set of circumstances, the petitioner is directed to surrender before the trial Court on or before 20.12.2023 and on his doing so he shall be admitted on interim bail to satisfaction of the learned trial Court, subject to the compliance of conditions as envisaged under Section 438(2) Cr.P.C.

8. Adjourned to 05.01.2024.”

3. Learned counsel for the petitioner, while referring to the order dated 20.12.2023 passed by the learned Additional Sessions Judge, S.A.S. Nagar (Mohali), has submitted that the petitioner has appeared before the learned trial Court and has been admitted to interim bail in accordance with the order dated 20.11.2023 passed by this Court.

3.1 Learned counsel further submits that the petitioner shall keep on appearing before the learned trial Court and face trial in accordance with law.

4. Learned State counsel, on instructions from SI Harmesh Kumar, has stated that pursuant to the order dated 20.11.2023, the petitioner has appeared before the trial Court and is not required for any custodial interrogation.

5. In view of above, the interim order dated 20.11.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

6. This order should not be treated as “blanket” order. It will not be read granting petitioner 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.

7. Liberty is reserved in favour of State/complainant to move for cancellation/recall of this order in case the petitioner violates any condition stipulated under Section 438(2) Cr.P.C., 1973 or upon showing any other sufficient cause.

8. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

February 06, 2024
poonam

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No