

CRM-M-51311-2023
Date of decision: 22.02.2024

...PETITIONER

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR J. (ORAL)

Through instant petition, the petitioner is seeking anticipatory bail in case FIR No.538 dated 21.09.2023 registered under Section 409 of Indian Penal Code at Police Station Pataudi, District Gurugram.

2. On 24.01.2024, following order was passed:

“The present petition has been filed under Section 438 of Cr.P.C. seeking anticipatory bail to the petitioner in case bearing FIR No.538 dated 21.09.2023 under Section 409 of IPC registered at Police Station Pataudi District Gurugram.

Learned counsel for the petitioner inter alia contends that the allegations contained in the FIR clearly indicates that no offence under Sections 406/409 of IPC is made out. The dispute is with regard to the non-payment of collection of toll plaza and there is an arbitration clause between the petitioner and the complainant and as per the liability as alleged in the FIR, out of Rs.2.6 crores, bank guarantee of Rs.1.7 crores has already been encashed and vide order dated 03.11.2023, the arrest of the petitioner has been stayed.

Adjourned to 22.02.2024.

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.

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.”

4. Learned State counsel, on instructions from ASI Surender, submits that in compliance of order dated 24.01.2024, passed by this Court, the petitioner has joined the investigation and is not required for further custodial interrogation.
5. Keeping in view the statement made by learned State Counsel the order dated 24.01.2024, is made absolute. The petitioner shall abide by the terms and conditions enumerated in Section 438(2) Cr.P.C.
6. The petition is accordingly allowed.
7. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and trial Court shall proceed without being prejudiced by observations of this Court.

February 22, 2024
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(HARPREET SINGH BRAR)
JUDGE

- (i)

Whether speaking/reasoned

Yes/No
- (ii)

Whether reportable

Yes/No