

274 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-64687-2023 (O&M)
Date of Decision: 19.02.2024

...Petitioner

V/S

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: None for the parties.

ASI Bhajan Ram in person.

HARPREET SINGH BRAR J. (Oral)

1. Through the instant petition, the petitioner is seeking anticipatory bail in case FIR No. 56 dated 07.07.2023 registered under Sections 67(A), 67 B of Information Technology Act, 2000 and Section 15 of Protection of Children from Sexual Offences Act (Amended) 2019 at Police Station Bhargo Camp, District Police Commissionerate Jalandhar.
2. On 12.01.2024, 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.56 dated 07.07.2023 registered under Sections 67(A), 67 B of Information Technology Act, 2000 and Section 15 of Protection of Children from Sexual Offences Act (Amended) 2019 at Police Station Bhargo Camp, District Police Commissionerate Jalandhar.

Learned counsel for the petitioner inter alia contends that the petitioner is a student aged about 18 years and has been involved in the present case on the basis of suspicion. Nobody has come forward to make any complaint before the concerned jurisdictional police authorities. Rather, the police has registered the instant FIR on the basis

of Cyber Tip line. The petitioner used to play online games on internet and his facebook ID was known to some of his friends and they had misused his account and ID to upload the pornographic material. The offences under which, the present FIR has been lodged are punishable up to 05 years. Notice under Section 41-A of Code of Criminal Procedure has not been served upon the petitioner. As such, he is entitled to the concession of anticipatory bail.

Notice of motion.

On the asking of the Court, Mr. Subhash Godara, Addl. A.G., Punjab, who is present in Court, accepts notice on behalf of the respondent State and filed status report dated 11.01.2024 by way of an affidavit of Jaspreet Singh (PPS) Assistant Commissioner of Police West, Jalandhar on behalf of respondent-State which is taken on record. A copy thereof be supplied to learned counsel for the petitioner during the course of the day.

*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; Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Mohd. Muslim alias Hussain Vs. State (NCT of Delhi) 2023 SCC OnLine SC 352**, 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.

Adjourned to 19.02.2024.

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.”

3. In view of the resolution passed by Punjab & Haryana High Court Bar Association, there is no representation on behalf of the parties, but ASI Bhajan Ram has appeared in person and apprised the Court that in compliance of order dated 12.01.2024 passed by this Court, the petitioner has joined the investigation and is not required for further custodial interrogation.
4. Keeping in view the statement made by learned State Counsel the order dated 12.01.2024, is made absolute. The petitioner shall abide by the terms and conditions enumerated in Section 438(2) of Cr.P.C.
5. The petition is accordingly allowed.

19.02.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No