

HRSO010101382023



Presented on : 29-08-2023

Registered on : 29-08-2023

Decided on : 18-09-2023

Duration : 0 years, 0 months, 20 days

**In the Court of Additional Sessions Judge at Sonipat,
(Presided Over by Rajinder Pal Goyal)**

BA/2581/2023

Sukhbir aged 76 years son of Shri Des Raj resident of village Thana Kalan
(220) Sonipat, District Sonipat.

...Applicant/accused.

Versus

State of Haryana.

....Respondent

FIR No.428 dated 21.08.2023

Under Sections 186, 353, 506

of the Indian Penal Code.

Police Station Kharkhoda, District Sonipat.

Ist application for grant of anticipatory bail under Section 438 Cr.P.C.

Argued by:- Shri Hari Om Dalal, Advocate for the applicant-accused.
Shri Baldev Singh, learned Public Prosecutor for State.

ORDER:-

Reply to the bail application filed.

2. The brief facts of the prosecution case are that one order was

received in the police station from the court of Additional Civil Judge (Senior Division), Kharkhoda on 18.08.2023. Complainant Krishan Kant, Process Server had reached in village Thana Kalan to serve the summon in the name of Sukhbir Singh son of Desh Raj regarding the case titled as Axis Bank Vs. Harjender Singh of Hon'ble Delhi High Court where Sukhbir Singh was available. He was asked to get himself served of the summons. He seized the summons and started abusing and stated that he would see his court and the complainant and administered a threat to kill. Thus obstructed in discharge of official duty of the complainant. On the basis of this complaint, case under sections 186, 353, 506 IPC was registered. Investigation was carried out by PSI Rahul. The raid was conducted. The accused concealed his presence to evade his arrest. It is prayed that applicant-accused not be released on anticipatory bail.

3. Learned counsel for the applicant-accused has sought his anticipatory bail on the ground that he has been falsely implicated in the instant case under the undue influence of process server. The applicant-accused never snatched any documents or summon from the complainant i.e. Krishan Kant, process server. All the offences are bailable except Section 353 of IPC. The applicant-accused is ready to join the investigation as and when required by the police as no custodial interrogation of the applicant-accused is required. It is therefore, requested that the applicant-accused be released on anticipatory bail.

4. On notice, the learned Public Prosecutor for the State has opposed the bail application tooth and nail and prayed for dismissal of the

same.

5. I have heard the learned counsel for the applicants-accused and the learned Public Prosecutor for the State.

6. The learned counsel for the applicant-accused has contended that all the offences are bailable except section 353 IPC in which the maximum punishment is for two years and the case of the applicant-accused falls within the ambit of **Arnesh Kumar Vs. State of Bihar**. The applicant-accused has a fixed abode of living and there is no apprehension of his absconding or tempering with the prosecution evidence. It is merely a case of verbal abuse and threat.

7. The case of the applicant-accused does not fall within the ambit of **Arnesh Kumar Vs. State of Bihar** because it is a case where the accused had snatched the summons from the complainant which was of Hon'ble Delhi High Court and the applicant-accused also abused the complainant verbally. The orders of the court are meant to be obeyed. If the orders of the Supreme Court are to be complied with as per Article 144 of the Constitution of India which runs as under:-

“Article 144 of the Indian Constitution **directs the civil and judicial bodies to assist the Supreme Court**. It mandates that all civil and judicial authorities on Indian territory must assist the Supreme Court. On 27 May 1949, the Constituent Assembly examined Draft Article 120 (Article 144).”

8. Similarly, the orders of the Hon'ble High Court are to be complied with by all civil and judicial authorities whosoever obstructs in execution of the orders of the judicial authorities cannot be complained to

say that his case falls within the ambit of **Arnesh Kumar Vs. State of Bihar**, therefore, he is entitled to be released on anticipatory bail. Therefore, the anticipatory bail application of the applicant-accused being without merit and is dismissed. **It is hereby made clear that the order of this court shall have no bearing on the merits of the case.** File be consigned to the records.

Announced in open court.
18.09.2023
Anil Kumar

(Rajinder Pal Goyal)
Additional Sessions Judge,
Sonipat. **UID HR0091**

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CNR No.HRSO010101382023

BA-2581-2023

Presence:- Shri Hari Om Dalal, Advocate for the applicant-accused.
Shri Baldev Singh, learned Public Prosecutor for State.

As per my separate detailed order of even date, the instant bail application has been dismissed. File be consigned to the records.

Announced in open court.
18.09.2023

Anil Kumar

(Rajinder Pal Goyal)
Addl. Sessions Judge,
Sonipat. **UID HR0091**