

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO. _____ OF 2024
(@Special Leave Petition (Cr1.) No.9949/2023)**

ASHOK KUMAR

...Appellant

VERSUS

STATE OF UNION TERRITORY CHANDIGARH

...Respondent

O R D E R

1. Leave granted.

2. We have heard Mr. D.K. Sharma, the learned counsel appearing for the appellant (original accused) and Mr. Kanu Agarwal, the learned counsel appearing for the respondent-Union Territory of Chandigarh.

3. A First Information Report bearing No. 05/2023 dated 15.06.2023 came to be registered with the Vigilance Police Station, Chandigarh against the appellant and other co-accused for the offences punishable under Sections 419, 465, 468 and 471 read with Section 120-B of the Indian Penal Code, 1860 and Section 7-C of the Prevention of Corruption Act, 1988.

4. The appellant apprehending arrest at the hands of the police first prayed for anticipatory bail before the Sessions Court Chandigarh. The Sessions Court declined to grant anticipatory bail. The appellant thereafter, went before the High Court and prayed for anticipatory bail. The High Court also declined to grant anticipatory bail.

5. In such circumstances referred to above, the appellant is here before this Court with the present appeal.

6. By our Order dated 25.08.2023, notice was issued and an interim order was passed that the appellant shall not be arrested.

7. We are informed that after our Order dated 25.08.2023, referred to above the appellant appeared before the Investigating Officer for the purpose of interrogation and his statements have been recorded. We are also informed that the specimen signatures/ hand-writings of the appellant has also been collected and sent to the Forensic Science Laboratory.

8. The learned counsel appearing for the appellant submitted that in such circumstances, the appellant may be ordered to be released on anticipatory bail. On the other hand, Mr. Kanu Agarwal, the learned counsel appearing for the respondent-Union Territory of Chandigarh has vehemently opposed the plea for anticipatory bail. He submitted that the appellant is the main accused and his custodial interrogation is required.

9. Having heard the learned counsel appearing for the parties and having gone through the materials on record, the only question that falls for our consideration is whether we should exercise our discretion in favour of the appellant and order his release on anticipatory bail in the event of his arrest by the police?

10. The First Information Report originates from a departmental inquiry initiated sometime in 2017. It took almost 6 years for the

police to register the FIR for the alleged offences. We do not say for a moment that this by itself is sufficient to order the release of the appellant on anticipatory bail.

11. One good ground which has persuaded us to exercise our discretion in favour of the appellant is that the appellant has already joined the investigation. He has cooperated in the investigation so far.

12. There is no gainsaying that custodial interrogation is one of the effective modes of investigating into the alleged crime. It is equally true that just because custodial interrogation is not required that by itself may also not be a ground to release an accused on anticipatory bail if the offences are of a serious nature. However, a mere assertion on the part of the State while opposing the plea for anticipatory bail that custodial interrogation is required would not be sufficient. The State would have to show or indicate more than prima facie why the custodial interrogation of the accused is required for the purpose of investigation.

13. The appellant has assured this Court that as and when required to appear in future before the Investigating Officer, he would do so and cooperate in the investigation.

14. Without observing anything further, we set aside the impugned order passed by the High Court. We order that in the event of arrest of the appellant by the police in connection with the F.I.R. referred above, he shall be released on bail subject to terms and

conditions that the Investigating Officer may deem fit to impose.

15. The appeal stands disposed of, as above.

16. Pending application(s), if any, shall stand disposed of.

....., J.
(J.B. PARDIWALA)

....., J.
(MANOJ MISRA)

NEW DELHI;
MARCH 01, 2024.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No.9949/2023

(Arising out of impugned final judgment and order dated 21-07-2023 in CRM-M No. 35088/2023 passed by the High Court of Punjab & Haryana at Chandigarh)

ASHOK KUMAR

Petitioner(s)

VERSUS

STATE OF UNION TERRITORY CHANDIGARH

Respondent(s)

Date : 01-03-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA

HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Daya Krishan Sharma, AOR
Mr. D.K. Sharma, Adv.
Mr. Rohit Vats, Adv.
Mrs. Sunita Sharma, Adv.
Mr. Shubham Rana, Adv.

For Respondent(s) Mr. Mukesh Kumar Maroria, AOR
Mr. Kanu Agarwal, Adv.
Mr. Varun Chugh, Adv.
Mr. Krishna Kant Dubey, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The appeal stands disposed of in terms of the Signed Order placed on the file.
2. Pending application(s), if any, shall stand disposed of.

(VIJAY KUMAR)
COURT MASTER (SH)

(POOJA SHARMA)
COURT MASTER (NSH)