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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-17485-2015

Date of decision: 01.06.2015

Tarsem Singh @ Babbu

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Veneet Sharma, Advocate
for the petitioner.

Mr. K.D. Sachdeva, Addl. AG, Punjab.

RAMESHWAR SINGH MALIK, J. (ORAL)

Petitioner seeks pre-arrest bail in FIR No.114 dated 02.07.2012 under Sections 365 IPC, registered at Police Station Beas, District Amritsar Rural.

Notice of motion was issued to Advocate General, Punjab for today vide order dated 26.05.2015.

Learned counsel for the petitioner places reliance on the enquiry report dated 30.04.2013 (Annexure P-2), wherein the Deputy Superintendent of Police, Baba Bakala found the petitioner to be innocent. He also places reliance on an order dated 10.03.2015 passed by learned Addl. Sessions Judge, Amritsar, whereby Bagicha, co-accused of the petitioner, was granted the concession of anticipatory bail. He next contended that Samunder, who was allegedly kidnapped, has been found

and also admitted that he took Rs.5 lacs from Sarabjit Singh and others, which were distributed amongst the labourers but the labourers did not turn up. He prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from SI Palwinder Singh, Police Station Beas, District Amritsar (Rural), submits that although initially, petitioner was found innocent in the enquiry conducted by the Deputy Superintendent of Police, Baba Bakala vide enquiry report (Annexure P-2), yet Samunder in his statement before the police, has supported the version recorded in the FIR. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, petitioner has been found entitled for the concession of anticipatory bail. It is so said because petitioner was found innocent by the Deputy Superintendent of Police, Baba Bakala in his enquiry report (Annexure P-2). Taking Rs.5 lacs by Samunder is also a very important factor in the case. It will be a moot point that in such a situation, the provision of Sections 365 IPC would be attracted or not.

In view of the above and without commenting anything further on merits of the case at this stage, lest it should prejudice the rights of either of the parties, present petition is allowed. In the event of arrest, petitioner shall be admitted to anticipatory bail to the satisfaction of

Arresting/Investigating Officer, however, subject to the conditions envisaged under Section 438 (2) Cr.P.C.

Disposed of, accordingly.

01.06.2015
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE