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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No.23947 of 2018

Date of Decision: 30.05.2018

Nanko Bai and another

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Parvesh Sachdeva, Advocate,
for the petitioners.

SUDIP AHLUWALIA, J. (ORAL)

The instant petition has been filed under Section 438 of the Code of Criminal Procedure, seeking anticipatory bail on behalf of the petitioners in case bearing FIR No.33, dated 26.04.2016, under Sections 302/148/149 of the Indian Penal Code, registered at Police Station Arniwala, District Fazilka (Annexure P-1).

2. Notice of motion.

3. At this stage, on the asking of the Court, Mr. Luvinder Sofat, A.A.G., Punjab, accepts notice on behalf of the State.

4. The petitioners were summoned under Section 319 of the Code of Criminal Procedure vide order, dated 14.03.2018, (Annexure P-2) passed by the Ld. Ist Additional Sessions Judge, Fazilka, to face trial as additional accused. They approached the Ld. Additional Sessions Judge, Fazilka, under Section 438 of the Code of Criminal Procedure for grant of

anticipatory bail and their prayer for anticipatory bail was rejected vide separate orders dated 19.04.2018, being Annexures P-3 and P-4.

5. Various Co-ordinate Benches of this Court have granted anticipatory bail to applicants summoned to face trial under Section 319 of the Code of Criminal Procedure involving more equal heinous/grievous offences by relying upon the decision of the Hon'ble Supreme Court in **“Gurbaksh Singh Sibbia etc vs. State of Punjab”, 1980 AIR (SC) 1632** and a decision of Co-ordinate Bench of this Court in ***CRM-M No.13285 of 2015*** titled **“Bajinder Singh and another vs. State of Punjab”**. It has been held, *inter alia*, in those decisions that as the petitioners were being summoned for trial after they had not been originally sent up by the Investigating Officer, they were clearly, “not required for the purpose of investigation”.

6. The case of the present petitioners is similar to those covered under the decisions referred to above.

7. Furthermore, the petitioners were not sent up by the Police to face trial vide challan under Section 173 of the Code of Criminal Procedure and they have been summoned under Section 319 of the Code of Criminal Procedure only. Therefore, the case of the present petitioners is not different from the above decisions.

8. Consequently, this Court finds no reason to deny the same benefit to the present petitioners, namely Nanko Bai and Rajja Bai, who may, therefore, be released on bail to the satisfaction of the Ld. Trial Court, concerned, in the present case, i.e. FIR No.33, dated 26.04.2016, under Sections 302/148/149 of the Indian Penal Code, registered at Police Station

Arniwala, District Fazilka (Annexure P-1), subject to compliance of terms and conditions envisaged under Section 438(2) of the Code of Criminal Procedure and other term/condition as may deem appropriate.

9. Disposed off.

30.05.2018

Apurva

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/ reasoned : Yes/ No
2. Whether reportable : Yes/ No