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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46269-2022 (O&M)
Date of decision: 27.10.2022

SANJEEV KUMAR AND OTHERS

...Petitioners

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Darshan Singh Malwai, Advocate
for the petitioners.

JAISHREE THAKUR, J. (Oral)

CRM-38559-2022

In view of the office note dated 01.10.2022, the instant application is disposed of with a direction that the bail application shall be treated as second bail application on behalf of petitioner Nos.2 and 3 namely Ram Saran and Satya Devi respectively.

CRM-M-46269-2022

The instant petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioners under Section 304-B IPC by contending that the petitioners herein are already on regular bail in FIR No.0047 dated 23.07.2017, registered under Sections 306 and 34 IPC, at Police Station Kanwan, District Pathankot, Punjab.

Learned counsel for the petitioners herein would contend that the petitioners have been allowed the consession of regular bail by this Court in CRM-M-53254-2018 decided on 11.12.2018, CRM-M-35538-2018 decided on 27.09.2018 and CRM-M-7149 of 2018 decided on 03.08.2018 respectively. He would submit that in fact, evidence has been led in the said matter and there is an observation by the Additional Session Judge, Pathankot to the effect that *prima facie* case under Section 304-B IPC read with Section 34 IPC is made out and, therefore, the petitioners herein would be entitled to bail under the said Sections. It is contended that the Additional Sessions Judge, Pathankot by order dated 26.09.2022 has declined the bail to the petitioners.

Notice of motion.

Ms. Deepali Puri, Addl. A. G., Punjab, who is present in Court, accepts notice on behalf of the respondent-State.

Mr. Dinesh Mahajan, who is also present in Court, accepts notice on behalf of complainant and would submit that in fact, the very bail application is premature since as on date, there is no amendment to the Sections and charge under Section 304-B IPC has not been added till date. This statement is also supported by learned State counsel on instructions from Assistant Sub-Inspector Pawan Kumar, Police Station Sadar Pathankot.

I have heard learned counsel for the parties and find that the instant petition is premature considering the fact that as on date, Section 304-B IPC has not been added to the proceedings under the FIR.

In such a situation, the instant petition is disposed of as being premature, with liberty to the petitioners herein to challenge afresh in case, Section 304-B IPC is added. While disposing of the instant petition being premature, to safeguard the interest of the petitioners herein, their arrest would be stayed for a period of one week, in order for them to avail any remedy, in case, the charges are so amended.

27.10.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No