

In the High Court of Punjab and Haryana at Chandigarh**[201]****CRM-M-32174-2022 (O&M)****Date of Decision: 01.12.2023**

SHIBANI PARTI AND ANOTHER

..... PETITIONERS

Versus

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Raghav Awasthi, Advocate for the petitioners.

Mr. P.P. Chahar, Sr. DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioners, by filing the present petition, cast under Section 438 of Cr.P.C., seek grant of anticipatory bail in case FIR No.115 of 30.04.2021, registered at Police Station Narwana City, District Jind (Haryana), whereins offences constituted, under Sections 406, 420 and 506 of the Indian Penal Code, 1860, are embodied.
2. On the instant bail petition, this Court had on dated 26.07.2022 granted ad-interim bail to the present petitioners. However, the said granted ad-interim bail to the present petitioners, was made subject, to the hereinafter extracted conditions.

“In the meantime, and, till further orders, the bail applicants-petitioners may not be arrested, by the arresting officer. However, subject to the bail applicants-petitioners furnishing personal and surety bonds in the sum of Rs.1,00,000/- each, to the satisfaction of the arresting officer. The bail applicants shall also give an undertaking before the arresting officer, that as and when they are summoned through a written Hukamnama, they shall ensure theirs rendering cooperation to the investigating officer, especially qua theirs making an undertaking, qua their willingness, to deposit a reasonable sum of the purported embezzled sums, before the learned trial court concerned.”

3. The above made conditional order of ad-interim bail qua the present petitioners, caused grievance to the petitioners and led them to institute a '*SLP vide Diary No.38349 of 2022*', before the Hon'ble Apex Court. On the said SLP, the hereinafter extracted order was made:-

“What is impugned is an interim order wherein even while granting protection to the petitioner the High Court has directed the payment of a “reasonable sum”, out of the sum alleged to have embezzled by the late husband of the petitioner no.1

This Court is of the opinion that the petitioners should seek appropriate modification of the interim order of the High Court, if advised, given that no final order have been made.

Learned counsel appearing for the petitioners seeks permission of the Court to withdraw the Special Leave Petition with liberty to move the High Court. Permission granted.

The Special Leave Petition is dismissed as withdrawn with liberty as prayed for.”

4. A reading of the above extracted order, as made by the Hon'ble Apex Court, reveals that though the Hon'ble Apex Court, did not make any interference, with the above recorded order by this Court, but yet permitted the present petitioners, to seek an appropriate modification of the order(supra), whereby, this Court was pleased to grant ad-interim protection, against the present petitioners becoming arrested, but subject to theirs depositing a reasonable sum of embezzled monies, before the Investigating Officer concerned.

5. Therefore, the learned counsel for the petitioners argues, that in terms of the order(supra), as recorded by the Hon'ble Apex Court, a modification be made to the condition(supra).

6. However, yet the learned counsel for the petitioners further submits, that he has instructions to state that the said reasonable sum may be comprised in a sum of Rs.5 lacs. Therefore, given the said purveyed consent,

on behalf petitioners, by their counsels, the above made order, is thus, made absolute.

7. Though, learned State counsel, opposes the making of absolute the above made ad-interim order, thus, on the ground that the petitioners have not rendered any able cooperation to the investigating officer concerned. However, since the learned State counsel has not been able to place on record any '*written Hukamnama*', issued upon the present petitioners, thus asking them to participate in the relevant investigation. Therefore, the learned State counsel cannot submit, that there was no cooperation meted by the present petitioners to the investigations, as underway in respect of the petition offences.

8. Be that as it may, since the the learned counsel for the petitioners also submits that hereafter on '*written Hukamnamas*', issued upon them, they would thereby abide by the said *Hukamnamas*, and, shall also render cooperation to the Investigating Officer concerned. Therefore, subject to the petitioners rendering cooperation to the Investigation Officer concerned, on scribed *Hukamnamas* being served upon them, by the Investigating Officer concerned, therefore, this Court proceeds to make absolute the above order.

9. Consequently, present petition is allowed and the order made by this Court on July 26, 2022, is made absolute, but subject to the conditions (*supra*), relating to theirs rendering cooperation to the investigating officer concerned, besides, theirs not tampering with the prosecution evidence nor theirs influencing or intimidating the prosecution witnesses. Moreover, subject to the compliance of the conditions, as envisaged under Section 438(3) Cr.P.C.

10. Moreover, the petitioners shall deposit a sum of Rs.5 lacs each before the Investigating Officer concerned, who shall subsequently deposit the

said amount in the establishment of the learned trial Judge concerned. The

disbursement of the said money, but as victim compensation, to the victim aggrieved, shall become regulated by the outcome of the trial, as become entered into by the learned trial Magistrate concerned.

11. The afore observations are meant only for the disposal of the present petition, and, shall not affect the merits of the trial arising from the FIR (supra)

12. All pending application(s), if any, is disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

December 01, 2023
Anjal*

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No