

2023:PHHC:085886

210 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28336-2023

Date of Decision: 07.07.2023

HARBHAJAN KAUR

... PETITIONER

VS.

STATE OF PUNJAB AND ANOTHER

.. RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Jaswinder Singh Rana, Advocate for
Mr. Bhawesh Chaudhary, Advocate, for the petitioner.
Mr. Hittan Nehra, Additional Advocate General, Punjab.

VIVEK PURI, J.(ORAL)

On 01.06.2023, the following order was passed by the

Coordinate Bench of this Court:-

“Through instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioner is seeking anticipatory bail in FIR No. 30 dated 12.03.2023, under Sections 406 and 498-A of IPC, registered at Police Station Women Cell, Jalandhar.

Learned counsel for the petitioner inter alia contends that petitioner was granted concession of interim bail on 29.03.2023 by Additional Sessions Judge, Jalandhar, however, bail application has been dismissed on the ground that petitioner has failed to get recovery effected. In the order passed by learned Additional Sessions Judge, Jalandhar, it has been noticed that recovery of gold ring and wrist watch which was handed over to husband of the complainant is to be effected. No recovery is actually to be effected from the petitioner and in any case it is settled position of law that bail cannot be denied on the ground of recovery of articles. The petitioner is ready to join investigation and face proceedings. There is no possibility of flee from justice. The arrest would cause irreparable loss, mental agony, embarrassment and humiliation to petitioner as well entire family.

Notice of motion, returnable for 07.07.2023.

On the asking of Court, Ms.Guramrit Kaur, DAG, Punjab, who on advance notice, is present in court, accepts notice on behalf of State-respondent.

Having considered contents of the FIR, role attributed to the petitioner, gravity of offence, sentence prescribed for commission of alleged offence, arguments put forth by the petitioner and law enunciated by Hon’ble Supreme Court in Thana Singh v. Central Bureau of Narcotics, (2013) 2 SCC 590, Arnab Manoranjan Goswami V. State of Maharashtra, (2021) 2 SCC 427, Satender Kumar Antil V. CBI (2022) 10 SCC 51, Siddharam Satlingappa Mhetre V. State of Maharashtra & Ors., 2010 SCC OnLine SC 1375, Shri Gurbaksh Singh Sibbia V. State of Punjab (1980) 2 Supreme Court Cases 565, Arnesh Kumar V. State of Bihar (2014) 8 SCC 273, this Court is of the prima facie opinion that petitioner deserves protection from arrest. Accordingly, at the first instance, the petitioner is directed to appear before investigating officer on 06.06.2023 and thereafter as directed by

IO. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bonds to the satisfaction of investigating/arresting officer. The petitioner shall co-operate the investigating officer.

If the arresting officer does not permit the petitioner to join the investigation, the petitioner would appear before the learned Illaqa Magistrate who would then summon the arresting officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and trial court shall proceed without being prejudiced by observations of this Court.”

2. Learned counsel for the petitioner contends that in pursuance of interim directions issued by this Court, the petitioner has joined the investigation.

3. Learned State counsel has not disputed the aforesaid factual aspect and further submits that custodial interrogation of the petitioner is not required.

4. Keeping in view the entire circumstances, sufficient grounds are made out to extend the concession of pre-arrest bail to the petitioner. It is directed that in the event of arrest, the petitioner be released on bail to the satisfaction of the Arresting Officer subject to the condition that the petitioner complies with the conditions specified in Section 438 (2) of the Code of Criminal Procedure.

07.07.2023
smriti

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No