

CRM-M-5888-2024
Date of decision: 11.03.2024

...PETITIONER

V/S

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Naresh Gopal Sharma, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

This is the first petition filed under Section 438 of Code of Criminal Procedure seeking anticipatory bail in case FIR No.169 dated 18.09.2023 registered under Sections 21 and 22 of NDPS Act, 1985 at Police Station Khanna City-2, District Khanna.

2. On 05.02.2024, the following order was passed:

“The present petition has been filed under Section 438 of the Code of Criminal Procedure (hereinafter referred to as CR.P.C) for grant of anticipatory bail to the petitioner in FIR No.169 dated 18.09.2023 under Sections 21, 22 of the NDPS Act registered at Police Station Khanna City-2, District Khanna.

Learned counsel for the petitioner, inter alia, contends that the present FIR was lodged on the basis of the secret information against 12 persons. The case of the prosecution is based upon the video which went viral on social media and two persons were apprehended on the spot. The petitioner has no connection with the allegations contained in the FIR and similarly situated accused has been granted anticipatory bail by this Court vide order dated 25.01.2024 passed in CRM-M No.1212 of 2024 titled as Nikki Vs. State of Punjab.

Notice of motion.

On the asking of the Court, Mr. Subhash Godara, Addl. A.G., Punjab, who is present in Court, accepts notice on behalf of the respondent State and opposes grant of anticipatory bail to the petitioner.

*In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in **Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi, 2020 (1) RCR (Criminal) 833**, at the first instance, the petitioner is directed to appear before the Investigating Officer on or before 12.02.2024 and on his doing so or in the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner shall cooperate with the Investigating Officer and abide by the conditions as provided under Section 438 (2) Cr.P.C. If the Investigating/Arresting Officer does not permit the petitioner to join the investigation, the petitioner would appear before the 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.*

Adjourned to 11.03.2024.

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

3. Learned State counsel, on instructions from ASI Sukhwinder Singh, submits that the petitioner has not joined the investigation.

4. In view of the above, the petitioner is directed to appear before the concerned Illaqa Magistrate, who would then summon the Investigating Officer and direct him to join the petitioner in investigation in terms of order passed by this Court dated 05.02.2024, within a period of two weeks and on his doing so or in the event of his arrest, the petitioner shall be admitted to anticipatory bail

on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner shall cooperate with the Investigating Officer as and when required and abide by the conditions as provided under Section 438 (2) Cr.P.C.

5. In case, the petitioner fails to comply with the direction issued by this Court, the interim protection granted to the petitioner shall stand automatically vacated.
6. However, nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.
7. The instant petition stands disposed of in above terms.

March 11, 2024
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(HARPREET SINGH BRAR)
JUDGE

- (i)

Whether speaking/reasoned

Yes/No
- (ii)

Whether reportable

Yes/No