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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-21542-2024 (O&M)
Date of decision: 09.09.2024

Ahad

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Waqar Khurshid, Advocate
for the petitioner.

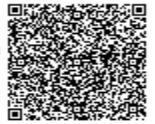
Ms. Geeta Sharma, DAG, Haryana.

Mr. Akash Sheoran, Advocate
for respondent No.2.

HARPREET SINGH BRAR, J. (ORAL)

1. This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in case bearing FIR No.114 dated 01.07.2023 under Sections 363, 366-A, 376, 452, 506 of the Indian Penal Code, 1860 and Section 4 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Nagina, Nuh, Haryana.
2. On 19.07.2024, the following order was passed:-

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“The present petition has been filed under Section 438 of Cr.P.C. seeking anticipatory bail to the petitioner in case bearing FIR No.114 dated 01.07.2023 under Sections 363/366-A/376/452/506 of IPC and Section 4 of POCSO Act registered at Police Station Nagina, Nuh, Haryana (Annexure P-1).

Learned counsel for the petitioner inter alia contends that the petitioner is not named in the FIR and only the main accused, Jasim, was named. The petitioner’s name has surfaced during the statement made by the prosecutrix under Section 164 Cr.P.C. before the learned jurisdictional Magistrate. Even in her statement under Section 164 Cr.P.C., no role has been attributed to the petitioner and there is a delay of 15 days in the registration of the FIR and petitioner is not an accused of sexual assault.

Notice of motion.

On the asking of the Court, Ms. Geeta Sharma, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent-State.

The learned State counsel assisted by Mr. Akash Sheoran, Advocate for the complainant, has vehemently opposed the grant of anticipatory bail to the petitioner on the ground that his name was duly named by the prosecutrix in her statement recorded under Section 164 Cr.P.C. The petitioner along with the main accused has recorded obscene video of the prosecutrix and he is involved in one more FIR.

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 within two weeks from today 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

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Investigating/Arresting Officer. The petitioner shall cooperate with the Investigating/Arresting 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 Investigating/Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 22.08.2024.

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.”

3. Thereafter, vide order dated 22.08.2024, the petitioner was again directed to appear before the Investigating Officer to join the investigation.

4. Learned State counsel, on instructions from LSI Rekha, at the very outset, informs the Court that the petitioner has joined the investigation and his custodial interrogation is not required.

5. In view of the statement of learned State counsel, order dated 19.07.2024 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 438(2) Cr.P.C.

6. The petition stands disposed of.

[HARPREET SINGH BRAR]
JUDGE

09.09.2024
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No