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230 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1979-2024 (O&M)

DATE OF DECISION : 19.09.2024

VINOD

... APPELLANT

V/S

STATE OF HARYANA AND ANOTHER

... RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Bharat Julka & Mr. Amit Gupta, Advocates,
for the appellant.

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

Ms. Sunita Devi, Advocate for respondent No.2.

* * * *

HARPREET KAUR JEEWAN, J. (ORAL)

1. The present appeal has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the appellant in case FIR No. 46 dated 10.02.2024, registered at Police Station Agroha, District Hisar, under Section 354-A of the Indian Penal Code (for short '*the IPC*'), Section 8 of the Protection of Children from Sexual Offences, Act, 2012 (for short the '*POCSO Act*') and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short '*the Act of 1989*') (Section 376 of the IPC and Section 4 of the POCSO Act added later on).

2. On 08.05.2024 following order was passed:

“xxx 2. At the outset, learned counsel for the petitioner submits that the present petition has inadvertently been filed under Section 438 Cr.P.C. and therefore, the same may be treated as an appeal keeping in view the provisions of Section 14-A of the Act of 1989.

3. Ordered accordingly.



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4. Since the present petition has been treated to be an appeal, its original number, i.e. CRM-M-22842-2024 be also cancelled and a fresh number of appeal be assigned to it. Office to do the necessary corrections in this regard.

5. Reliance has been placed upon the latest judgments of Hon'ble the Supreme Court in Prathvi Raj Chauhan Vs. Union of India and others, reported as 2020(4) SCC 727, and Hitesh Verma vs. State of Uttarakhand reported as 2020 (4) RCR (Criminal) 868, to contend that in such like situation, the bar under Sections 18 and 18-A of the Act of 1989 would not apply.

6. Further reliance has also been placed upon the judgment of Coordinate Bench of this Court in CRM-30576-M-2002 decided on 01.08.2002 titled as "Jagir Chand vs. State of Punjab" as well as in CRM-M-3956-2020 decided on 27.02.2020 titled as "Baljinder Kaur vs. State of Punjab" to contend that if the ingredients of the provisions of the Act are not met with, then the bar under Section 18 of the Act of 1989 cannot come in the way of the appellant being granted the concession of anticipatory bail.

7. Having received advance copy of the petition, Mr. Amrik Singh Narwal, D.A.G. Haryana, accepts notice on behalf of respondent No. 1-State and seeks time to file reply.

8. Ms. Sunita Devi, Advocate, accepts notice on behalf of respondent No. 2 and has filed his power of attorney in Court today. The same is taken on record.

9. To come up on 10.05.2024."

3. On 10.05.2024, the appellant was directed to join the investigation and following order was passed:-

"Notice to respondent No.2 be issued for 29.05.2024.

In the meanwhile, the petitioner is directed to join investigation within ten days and in the event of arrest, he shall be released on interim bail, to the satisfaction of the arresting officer/Area Magistrate, subject to furnishing bonds/surety, and also subject to the following conditions:-

(i) That the petitioner shall further make himself available for interrogation by a police officer as and when required.

(ii) That the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

(iii) That the petitioner shall not leave India without the prior permission of the Trial Court/CJM concerned."

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4. I have heard the learned counsel for the parties and perused the record.

5. Learned State counsel has also confirmed that the appellant has joined investigation. State counsel further informs that custodial interrogation of the appellant is not required.

6. In view of the reasons recorded in the order dated 08.05.2024 and 10.05.2024, the present appeal is allowed and the order dated 10.05.2024 granting interim bail to the appellant is made absolute, subject to the conditions laid down in Section 438(2) Cr.P.C.

7. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

8. However, liberty is reserved in favour of the State/complainant to move for cancellation/recalling of the order in case the appellant violates any condition stipulated under Section 438 (2) Cr.P.C., or upon showing any other sufficient cause.

9. All the pending miscellaneous applications, if any, shall stand disposed of.

19.09.2024

Janki

**(HARPREET KAUR JEEWAN)
JUDGE**

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