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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28859-2024 (O&M)
Date of decision: 04.07.2024

Avanish Kant Agnihotri

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amish Sharma, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

Mr. V.S. Mahal, Advocate
for the complainant.

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.0034 dated 09.04.2024 (Annexure P-1) under Sections 376(2)(n) & 506 of IPC, registered at Women Police Station Gurgaon, District Gurgaon.
2. On 31.05.2024, the following order was passed:-

“The present petition has been filed under Section 438 of Cr.P.C. seeking anticipatory bail to the petitioner in case bearing FIR No.0034 dated 09.04.2024 under Sections 376(2)

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(n)/506 of IPC registered at Women Police Station Gurgaon, District Gurgaon (Annexure P-1).

*Learned counsel for the petitioner inter alia contends that admittedly, the prosecutrix and the petitioner came into contact with each other on the Jeevansathi Matrimonial Portal and the prosecutrix is a mature lady having 19 years old son. He further submits that after interacting with each other, the petitioner and the prosecutrix developed intimacy and the relationship between them was purely consensual in nature. Counsel for the petitioner to substantiate his assertions has relied upon the messages exchanged between them and the photographs attached with the paper book. He further has placed reliance upon the judgments of the Hon'ble Supreme Court passed in '**Pramod Suryabhan Pawar Vs. The State of Maharashtra and another**' (2019) 9 SCC 608, '**Uday Vs. State of Karnataka**' (2003) 4 SCC 46, '**Anil Meena Vs. State of Rajasthan**' 2022 SCC Online SC 1689 and '**Mukesh Kumar Singh Vs. State of Rajasthan and another**' 2022 SCC Online SC 1687.*

Notice of motion.

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

*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*

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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 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 04.07.2024.

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. Learned State counsel, on instructions from HC Arpita, at the very outset, informs the Court that although the petitioner has joined the investigation twice, but he he has not handed over his laptop.

4. Mr. V.S. Mahal, Advocate appears on behalf of the complainant and files his *Vakalatnama*, which is taken on record. He vehemently opposes the prayer for grant of anticipatory bail to the petitioner on the ground that the petitioner has cheated the complainant by saying that he is a divorcee, whereas his divorce case is still pending. As such, he is not entitled to anticipatory bail.

5. In rebuttal, learned counsel for the petitioner submits that the

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petitioner has already submitted his two mobile phone to the Investigating Officer and his laptop has no connection whatsoever with the incident.

6. In view of the abovesaid facts and circumstances of the case, order dated 31.05.2024 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 438(2) Cr.P.C.

7. The petition stands disposed of.

8. It is made clear that on advance notice, the petitioner shall appear before the Investigating Officer as and when required for the purpose of investigation.

[HARPREET SINGH BRAR]
JUDGE

04.07.2024
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No