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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28974-2024 (O&M)
Date of decision: 30.08.2024

Ashish Kumar

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

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

Mr. Subhash Godara, Addl. A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

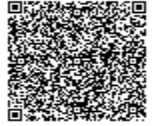
1. This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in case bearing FIR No.85 dated 20.05.2024 under Section 306 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Sadar Hoshiarpur, District Hoshiarpur.

2. On 31.07.2024, the following order was passed:-

"...On 31.05.2024, the following order was passed:-

'The present petition has been filed under Section 438 of Cr.P.C. seeking pre arrest bail to the petitioner in case bearing FIR No.85 dated 20.05.2024 under

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Section 306 of IPC registered at Police Station Sadar Hoshiarpur (Annexure P-1).

Learned counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in the present case. He further submits that when deceased informed the petitioner that she was not feeling well and asked him to take her to the doctor, the petitioner called his father to come with his car as he had no other option and when the petitioner along with his father were taking the deceased, i.e. daughter of the complainant, to the hospital, a truck hit their vehicle and in this incident, the daughter of the complainant died and petitioner and his father suffered serious injuries.

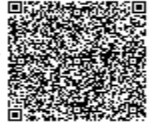
Notice of motion.

Mr. Sandeep Kumar, DAG, Punjab, who is present in Court, accepts notice on behalf of the respondent-State and per contra, opposes the prayer made by learned counsel for the petitioner on the ground that there are specific allegations against the petitioner and on the day of incident, the deceased called her father that the petitioner has beaten her and, thereafter, at 11:00 P.M., her in-laws called the complainant and informed him that the deceased had died after consuming something poisonous and he further seeks time to file status report especially, the viscera report and the cause of the death.

Adjourned to 11.07.2024.

In the meantime, arrest of the petitioner shall remain stayed.'

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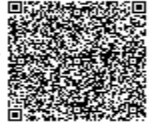
The learned State counsel has filed status report dated 30.07.2024 by way of an affidavit of Sh. Amar Nath, PPS, Deputy Superintendent of Police, Sub-Division City, District Hoshiarpur, on behalf of the respondent- State, in compliance of order dated 31.05.2024 passed by this Court and the same is taken on record.

The learned State counsel referred to the status report and submits that no poison was detected as per the finding in the FSL report which is attached with the status report as Annexure R-2.

The perusal of the status report indicates that the Doctor who has conducted the post mortem of the deceased has given opinion regarding the cause of death and according to the opinion, the cause of death is due to injuries as described in the post mortem report. Learned counsel for the petitioner submits that in view of the FSL report and the opinion of the Doctor, the allegations of the complainant that the petitioner has given some poisonous substance to the daughter of the complainant, are found to be false.

*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*

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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 30.08.2024.

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. Learned State counsel, on instructions from ASI Raswinder Pal Singh, at the very outset, informs the Court that the petitioner has joined the investigation and his custodial interrogation is not required.

4. Mr. Vineet Sehgal, Advocate appears on behalf of the complainant and files fresh *Vakalatnama* with No Objection from earlier counsel, in the Court today, which is taken on record. Registry is directed to tag the same at the appropriate place of the case file. He vehemently opposes the prayer for grant of anticipatory bail to the petitioner on the ground that in fact, deceased was intentionally killed by the petitioner and projected it a case of accident.

5. In view of the statement of learned State counsel, order dated 31.07.2024 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.

30.08.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No