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**IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH****CRA-S-2294-2024 (O&M)****Date of Decision: 08.08.2024****HETRAM****...Appellant****V/S****STATE OF HARYANA AND ANOTHER****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Mohan Singla, Advocate
for the appellant.

Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. The present appeal has been filed against the impugned order dated 07.06.2024 passed by the learned Court of Additional Sessions Judge, Hisar, whereby, anticipatory bail application under Section 438 Cr.P.C. has been dismissed in FIR No.423 dated 21.05.2024 under Sections 363/366 of IPC (Sections 376/354 of IPC and Section 3 of SC/ST Act added later on) registered at Police Station Sadar Hisar, District Hisar, Haryana.

2. On 08.07.2024, following order was passed:

"CRM-26011-2024"

The present application has been filed under Section 482 Cr.P.C. for impleadment of the complainant-Geeta as respondent No.2 and to place on record amended memo of parties.

In view of the averments made in the application, the same is allowed. Complainant-Geeta is impleaded as respondent No.2 in the main appeal. Amended memo of parties are taken on record. Registry is directed to tag the same at an appropriate place in the file.

CRM-26012-2024

The present application has been filed under Section 482 Cr.P.C. to place on record certain documents as Annexures P-5 & P-6 as Annexures P-5 & P-6.



In view of the averments made in the application, the same is allowed and certain documents as Annexures P-5 & P-6 as Annexures P-5 & P6 are taken on record subject to all just exceptions.

CRA-S-2294-2024

The present appeal has been filed against the impugned order dated 07.06.2024 passed by the learned Court of Additional Sessions Judge, Hisar, whereby, anticipatory bail application under Section 438 Cr.P.C. has been dismissed in FIR No.423 dated 21.05.2024 under Sections 363/366 of IPC (Sections 376/354 of IPC and Section 3 of SC/ST Act added later on) registered at Police Station Sadar Hisar, District Hisar, Haryana.

Learned counsel for the appellant inter alia contends that the appellant and the prosecutrix were in a consensual relationship and were having love and affection for each other. The prosecutrix/victim being major has consciously performed marriage with the appellant and the same is discernible from the marriage certificate (Annexure P-2) issued by the Municipal Corporation, Hisar, District Hisar. The prosecutrix/victim, with her own sweet will, has appeared before the concerned authorities for registration of marriage. He further relies upon the photographs (Annexure P-3) taken at the time of marriage. It is further contended that the factual ingredients breaching the threshold of Section 3 of the SC/ST Act are not available on record.

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.

*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 appellant 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 appellant shall be admitted to interim bail on*



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furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The appellant 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 appellant to join the investigation, the appellant would appear before the Illaqa Magistrate, who would then summon the Investigating/Arresting Officer and direct him to join the appellant in investigation, in terms of the order of this Court.

Adjourned to 08.08.2024.

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 DSP Vijay Pal, submits that in compliance of order dated 08.07.2024 passed by this Court, the appellant has however, joined the investigation, but he has not handed over his mobile phone, in which, he has allegedly made the video recording.

4. Keeping in view the fact that appellant has joined the investigation, the order dated 08.07.2024, is made absolute. The appellant is directed to hand over his mobile phone to the Investigating Officer within a period of two weeks from today, failing which the relief granted to the appellant vide this order shall be deemed to have been automatically vacated. The appellant shall also abide by the terms and conditions enumerated in Section 438(2) of Cr.P.C.

5. The appeal is accordingly disposed of.

(HARPREET SINGH BRAR)
JUDGE

08.08.2024
Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No