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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34467-2024

Date of decision: 22.08.2024

Rafeek

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Saleem Ahmed, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

Mr. Aazam Khan, Advocate
for the complainant.**HARPREET SINGH BRAR, J. (ORAL)**

This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in case bearing FIR No.62 dated 25.03.2022 (Annexure P-1) under Sections 328/342/363/365/366-A/506/376-D of IPC and Section 6 of POCSO Act registered at Police Station Bahin, Palwal (Haryana).

On 22.07.2024, the following order was passed:-

'The instant petition is preferred under Section 438 of the Code of Criminal Procedure, 1973 seeking anticipatory bail in FIR No.62 dated 25.03.2022 under Sections 328, 342, 363, 365, 366-A, 506, 376-DA of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Bahin, District Palwal.

Learned counsel for the petitioner, inter alia, contends that co accused of the petitioner, namely Chawan, suffered trial and he was acquitted, as the prosecutrix-victim did not support the case of the prosecution and she was declared hostile. The petitioner was initially declared as proclaimed offender vide order dated 05.11.2022 and this Court, vide order dated 04.06.2024 passed in CRM-M-29254-2024, set aside the said order on the ground that mandatory provisions of Section 82 Cr.P.C. were not followed. Learned counsel for the petitioner further contends that the petitioner has been falsely implicated in the present case and now a compromise has been effected between the parties, which is discernible from the affidavits (Annexures P-3 to P-5).

Notice of motion for 22.08.2024.

At this stage, Mr. Aazam Khan, Advocate appears on behalf of the complainant and files Vakalatnama, which is taken on record. He



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submits that the complainant has no objection in case the petitioner is granted the concession of anticipatory bail.

*Keeping in view the ratio of law enunciated by the Hon'ble Supreme Court in **Arnesh Kumar Vs. State of Bihar, (2014) 8 SCC 273, Arnab Manoranjan Goswami Vs. State of Maharashtra, (2021) 2 SCC 427, Satender Kumar Antil Vs. CBI, (2022) 10 SCC 51, Siddharam Satlingappa Mhetre Vs. State of Maharashtra and ors., 2010 SCC OnLine SC 1375 and Shri Gurbaksh Singh Sibbia Vs. State of Punjab, (1980) 2 SCC 565**, the petitioner is directed to appear before Investigating Officer within a period of two weeks from today and thereafter, as directed by the Investigating Officer. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing bail/surety bonds to the satisfaction of investigating/arresting officer and the petitioner shall co-operate in the investigation.*

If the arresting officer does not permit the petitioner to join the investigation, the petitioner would appear before the learned Illaqa Magistrate, who would then summon the arresting officer and direct him to join the petitioner in the investigation, in terms of the order of this Court.

Nothing observed hereinabove shall be construed as an expression of opinion by this Court and the trial Court shall decide the same on its own merits, strictly in accordance with law.'

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

In view of the statement of learned State counsel, order dated 22.07.2024 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 438(2) Cr.P.C.

The petition stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

22.08.2024

Neha

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