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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37659-2024 (O&M)

Date of Decision: 03.09.2024

SWATI PATHANIA

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Preetinder Singh Ahluwalia, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Ritesh Pandey, Advocate for the complainant.

...

SUMEET GOEL, J. (Oral)

1. This petition has been filed under Section 482 BNSS for grant of anticipatory bail to the petitioner in FIR No.68 dated 09.07.2024 registered for offences punishable under Sections 312, 315 and 316 of IPC (Sections 88/91/92 of BNS, 2023 added later on) at Police Station Dhariwal, District Gurdaspur.

2. On 05.08.2024, the following order was passed:-

“Apprehending her arrest in FIR No.68 dated 09.07.2024 registered for offences punishable under Sections 312, 315 and 316 of IPC at Police Station Dhariwal, District Gurdaspur; the petitioner has preferred this petition under Section 482 of BNSS, 2023 seeking pre-arrest bail.

Inter alia contends that the petitioner and the complainant are interlocked in matrimonial litigation since the year 2017; FIR in question relates to incident/occurrence of the year 2017; veracity of the basis of the allegations made in the FIR is a subject matter of evidence/rival contention of the parties which is subjudice before the civil/matrimonial Court; consent of the husband was not required to be undertaken when the feotus was only six weeks; petitioner is a lady aged 39

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years & the petitioner is willing to join investigation and cooperate therein.

Notice of motion.

On asking of the Court, Mr. Adhiraj Singh Thind, AAG, Punjab, appears and accepts notice on behalf of the respondent-State. Mr. Ritesh Pandey, Advocate has appeared and filed power of attorney on behalf of the complainant. The same is taken on record.

Adjourned to 03.09.2024.

The petitioner is directed to appear before the Investigating Officer on 09.08.2024 at 11:00 A.M. in concerned Police Station and join investigation. In the event of arrest, the petitioner shall be released on interim bail subject to her furnishing personal/surety bond(s) to the satisfaction of the Arresting Officer/Investigating Officer. As and when further called by Investigating Officer, the petitioner shall join the investigation. She shall abide by the condition(s) enumerated under Section 482(2) of BNSS, 2023.

The present order is directed to enure in respect of offences under Sections 88/91/92 of BNS, 2023 as well.”

3. Learned State counsel, on instructions from SI Satnam Singh, has stated that pursuant to the order dated 05.08.2024, the petitioner has joined investigation and is no longer required for custodial interrogation except for effecting recovery of original hospital bills.

4. Learned counsel for complainant has vehemently opposed the grant of anticipatory bail to the petitioner on the ground that the allegations made against the petitioner are serious in nature.

5. It is not in dispute that the petitioner has joined investigation and is not required for any purpose other than for recovery of original hospital bills. In the considered opinion of this Court, this factum by itself, is not sufficient to decline the concession of anticipatory bail to the petitioner especially when he has joined investigation to the satisfaction of the Investigating Officer on all other counts.



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6. In view of above, the petition is allowed and interim order dated 05.08.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 482(2) of BNSS, 2023.
7. This order should not be treated as “blanket” order. It will not be interpreted as granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.
8. Liberty is reserved in favour of State/complainant to move for cancellation/recall of this order in case the petitioner violates any condition stipulated under Section 482(2) of BNSS, 2023 or upon showing any other sufficient cause.
9. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.
10. Pending applications, if any, shall also stand disposed off.

03.09.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No