



CRM-M-38060-2024 (O&M)

1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101-1

CRM-M-38060-2024 (O&M)

Date of Decision : August 23, 2024

SUKHMAN SURI

-PETITIONER

V/S

STATE OF PUNJAB AND ORS.

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Rehat Bir Singh Mann, Advocate with
Mr. Syed Arham Masud, Advocate and
Mr. Wasif Naushad, Advocate
for the petitioner.

Mr. Pardeep Bajaj, D.A.G., Punjab.

Mr. Anand Chhibbar, Sr. Advocate with
Mr. Vaibhav Sharma, Advocate
Mr. Alok Bhachawat, Advocate and
Mr. Adarsh Dubey, Advocate
for the respondents No.2 and 3/complainants.

KULDEEP TIWARI, J. (ORAL)**CRM-33366-2024**

1. For the reasons assigned in the instant application, the same is **allowed**. Complainants Pradeep Kumar Mishra and Virender Kumar are ordered to be impleaded as respondents No.2 and 3 respectively in the present petition. The amended memo. of parties, as enclosed with the instant application, is ordered to be taken on record.

2. No notice is required to be served to the newly impleaded respondents, as they are represented by counsel.

CRM-M-38060-2024

2. On 14.08.2024, this Court had passed the hereinafter extracted

**CRM-M-38060-2024 (O&M)****2**

order, upon the instant petition:-

“On the oral request of the learned counsel for the petitioner, the complainants, namely, Varinder Kumar and Pardeep Kumar Mishra are, hereby, impleaded as respondents No.2 and 3.

Mr. Rehat Bir Singh, Advocate undertakes to file the amended memo of parties with the Registry of this Court during the course of the day.

Through the instant petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, prayer is made for grant of anticipatory bail to the petitioner in case FIR No.165 dated 5.8.2022, under Sections 420, 467, 468, 471, 120-B IPC, registered at Police Station Sarabha Nagar, Ludhiana.

The petitioner had earlier approached this Court by filing CRM-M-8825-2024 (Annexure P-15) and the same was disposed of with the following directions:-

“4. The petitioner has, without availing the efficacious statutory remedy by approaching the learned jurisdictional Court concerned at the first instance, straightaway accessed this Court by filing the instant petition under Section 438 of the Cr.P.C. In such circumstances, this Court refrains from interfering in the present matter at this stage. The petitioner is relegated to the jurisdictional Court concerned. The arrest of the petitioner shall remain stayed for next 07 days. In case, the petitioner approaches the jurisdictional Court concerned and files an application for anticipatory bail, the latter shall make all efforts to decide such anticipatory bail application within a period of four days, but, after hearing the opposite party and without getting influenced by the stay order granted by this Court.”

In deference to the directions issued by this Court, the petitioner had approached the learned Sessions Judge, Ludhiana and filed an application for grant of pre-arrest bail, which was declined vide order dated 2.8.2024 (Annexure P-2), which caused grievance to the petitioner and propelled her to institute the instant petition. Therefore, the second petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is maintainable as the earlier petition was not decided on merits and the petitioner was directed to first approach the learned Sessions Court concerned.

Learned Sr. counsel for the petitioner in the asking for the relief



(supra) submits that at the initial stage, the petitioner was not nominated in the FIR, rather she has been nominated subsequently, that too only on the statement of one Somnath Chatterji and Pankaj Guliani of New Delhi, who allegedly to have been working in the agency, where the petitioner is also alleged to have been working as an employee, namely, Godavari Motors, Department of Sales and Marketing and having direct influence on all the staff of the said firm/company, who are also involved in the offence, as alleged. He further submits that though the petitioner has been declared as a proclaimed Offender but the order declaring proclaimed offender has already been stayed by a co-ordinate Bench of this Court vide order dated 13.2.2024 passed in CRM-M-7722-2024. He also submits that the custodial interrogation of the petitioner is not required, as the entire case is based upon documentary evidence.

Learned counsel for the respondent-complainant, at the very outset submits that the instant petition for pre-arrest bail is not maintainable, in view of the fact that the petitioner has already been arrested on her arrival at New Delhi Airport and was produced before the Metropolitan Magistrate/Duty Magistrate concerned and the Metropolitan Magistrate vide order dated 10.2.2024 granted bail to the petitioner and also directed to surrender before the jurisdictional Court at Ludhiana on 13.2.2024 at 2.00 p.m..

I have perused the order (supra) passed by the Metropolitan Magistrate whereby, the petitioner was granted interim/transit bail for a specific period and beyond which the protection to the accused cannot be deemed to be extended.

Be that as it may, considering the above submissions, this Court is of the view that the petitioner can be directed to join investigation and in case she joins investigation and in the event of arrest, the petitioner shall be released on interim bail subject to her furnishing personal and surety bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall, however, join the investigation as and when called for and shall also abide by the conditions specified under Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

Adjourned to 23.8.2024.

To be shown in the urgent list. ”

4. Today, the learned State counsel has, on instructions imparted to him by A.S.I. Jagjit Singh, stated that pursuant to the making of the



hereinabove extracted order, the petitioner had joined investigation and she is no longer required for further custodial interrogation.

5. In view of the above, the hereinabove extracted interim order dated 14.08.2024, as made by this Court, is hereby made **absolute**, subject to the hereinafter extracted conditions:-

- “(i) the petitioner shall not commit an offence similar to the present offence;
- (ii) the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- (iii) the petitioner shall make herself available for interrogation by a police officer as and when required.”

6. This order should not be treated as “blanket” order. It will not be read 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.

7. Needless to say that anything observed hereinabove shall not be construed to be an opinion on the merits of the case.

August 23, 2024
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No