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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-40876-2024 (O&M)
Date of decision: 23.09.2024

Narayan and another

... Petitioners

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Manmohan Kaur Dhaliwal, Advocate
for the petitioners.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Rahul Rampal, Advocate
for the complainant.

HARPREET SINGH BRAR, J. (ORAL)

1. This petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 seeking anticipatory bail to the petitioners in case bearing FIR No.0037 dated 15.05.2024 under Sections 406 & 498-A of the Indian Penal Code, 1860, registered at Police Station Women, District Police Commissionerate Ludhiana, Punjab.
2. On 23.08.2024, the following order was passed:-

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“The present petition has been filed under Section 438 of Cr.P.C. seeking anticipatory bail to the petitioner in case bearing FIR No.0037 dated 15.05.2024 under Sections 406/498-A of IPC registered at Police Station Women, District Police Commissionerate Ludhiana, Punjab.

*Learned counsel for the petitioners inter alia contends that the FIR (supra) has been registered due to normal wear and tear of the matrimonial life and due to temperamental differences between the son of the petitioners and the complainant. He further submits that the petitioners were granted interim anticipatory bail by the learned Additional Sessions Judge, however, it was refused on the ground that some of the dowry articles were not recovered. However, the dowry articles which were in possession of the petitioners, have already been returned and this cannot be a ground to decline anticipatory bail. He further placed reliance upon ‘**Rajesh Sharma Vs. State of U.P.**’ (2018) 10 SCC 472. Moreover, the maximum sentence under which the FIR was lodged is punishable upto 03 years.*

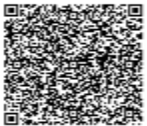
Notice of motion.

On the asking of the Court, Mr. Subhash Godara, Addl.A.G., Punjab, who is present in Court, accepts notice on behalf of the respondent-State.

Mr. Rahul Ram Pal, Advocate puts in appearance on behalf of the complainant and files his power of attorney which is taken on record. He vehemently opposes the prayer for grant of anticipatory bail to the petitioners on the ground that Rs.11 lakh in cash was given to the petitioners and the petitioners have cheated the complainant and filed an incomplete application for spousal visa.

*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; **Arnesh Kumar Vs. State of Bihar** (2014) 8 SCC 273 and **Mohd. Muslim alias Hussain Vs. State (NCT of Delhi)** 2023 SCC OnLine SC 352, at the first instance, the petitioners are directed to appear before the Investigating Officer within two weeks from today and on their doing so or in the event of arrest, the petitioners shall be admitted to interim*

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

Adjourned to 23.09.2024.

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 Davinder Pal Singh, at the very outset, informs the Court that the petitioners have joined the investigation and their custodial interrogation is not required.
4. In view of the statement of learned State counsel, order dated 23.08.2024 is hereby made absolute. The petitioners will abide by the terms and conditions envisaged under Section 438(2) Cr.P.C.
5. The petition stands disposed of.

[HARPREET SINGH BRAR]
JUDGE

23.09.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No