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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40789-2024

Date of decision: 30.09.2024

Navin Kaushik

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Nirmal Singh, Advocate for
Mr. Sunil Duggal, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 482 of Bharatiya
Nagarik Suraksha Sanhita, 2023 seeking anticipatory bail to the petitioner in
case bearing FIR No.137 dated 30.04.2024 under Sections 323/377/406/498-
A/506 of IPC registered at Police Station Sampala District Rohtak (Annexure
P-1).

On 29.08.2024, the following order was passed:-

'The instant petition is preferred under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking anticipatory bail in FIR No.137 dated 30.04.2024 under Sections 323, 377, 406, 498-A, 506 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Sampla, District Rohtak.

*Learned counsel for the petitioner, inter alia, contends that Section 377 of IPC has been added just to aggravate the offence. The matrimonial dispute arose between the petitioner and his wife due to temperamental differences. The complainant got herself medically examined and her MLR does not reveal anything, which would be suggestive of subjecting her to unnatural sex. There is nothing on record to suggest that the petitioner can be held liable for breaching the threshold of offence under Section 377 of IPC. Moreover, the maximum sentence provided for all other offences, under which the FIR (supra) is registered, is upto 03 years. As such, the petitioner is entitled to anticipatory bail in view of the directions issued by the Hon'ble Supreme Court in **Md. Asfak Alam Vs. State of Jharkhand and another, 2023 (3) RCR (Criminal) 754**. It is further contended*



that there is no possibility of the petitioner fleeing from justice and pre-trial detention would cause irreparable loss, mental agony, embarrassment and humiliation to the petitioner as well his entire family.

Notice of motion for 30.09.2024.

*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 SI Usha, 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 29.08.2024 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 482(2) of BNSS.

The petition stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

30.09.2024
Neha

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