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IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-46397-2024(O&M)
Date of Decision: 02.12.2024

HARKAMAL

...Petitioner

V/S

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajiv Joshi, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1.
- 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. 81 dated 17.08.2024 under Sections 406/498-A of IPC
registered at Police Station Women, Jalandhar.
2.
- On 18.09.2024, following order was passed:

*“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.81 dated 17.08.2024 under
Sections 406/498-A of IPC registered at Police Station Women,
Jalandhar.*

*Learned counsel for the petitioner inter alia contends that
matrimonial dispute arose between the petitioner and his wife due to
temperamental issues. Earlier also, a compromise was effected
between the petitioner and his wife and thereafter, behaviour of the
complainant did not improve and the petitioner has filed divorce
petition on the ground of cruelty and as a counter blast to the divorce
petition filed by the petitioner, the FIR (supra) has been registered.
Moreover, the maximum sentence provided for the offences under
which the FIR(supra) is registered is upto 3 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 v. State of Jharkhand and another 2023 (3) R.C.R(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.

On the asking of the Court, Mr. Sandeep Kumar, DAG, Punjab, who is present in Court, accepts notice on behalf of the respondent-State.

In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in **Arnesh Kumar v. State of Bihar (2014) 8 SCC 273**, **Arnab Manoranjan Goswami v. State of Maharashtra (2021) 2 SCC 427**, **Satender Kumar Antil v. CBI (2022) 10 SCC 51**, **Siddharam Satlingappa Mhetre v. State of Maharashtra & Ors. 2010 SCC OnLine SC 1375** and **Shri Gurbaksh Singh Sibbia V. State of Punjab (1980) 2 SCC 565**, at the first instance, the petitioner is directed to appear before the Investigating Officer within two weeks from today and on his doing so or in the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner 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 petitioner to join the investigation, the petitioner would appear before the Illaqa Magistrate, who would then summon the Investigating/Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 18.10.2024.

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. Ms. Vasundhara Dalal Anand, Legal Aid Counsel has put in appearance on behalf of respondent No. 2 and filed her power of attorney. Same is taken on record. Learned counsel for respondent No. 2 submits that petitioner

has not approached this Court with clean hands as the compromise dated 28.03.2021 (Annexure P-3) relied upon by the petitioner was never signed by respondent No. 2 and the compromise was effected only with regard to earlier complaint filed by respondent No. 2. Further, respondent No. 2 has also filed a complaint against the petitioner under the provisions of Protection of Women from Domestic Violence Act, 2005. She further submits that, if released on bail, petitioner is likely to evade the process of law and he will try to leave India and join the company of her sister and mother in Canada.

4. On the other hand, learned State counsel on instructions from ASI Shishpal, submits that in compliance of order dated 18.09.2024 passed by this Court, the petitioner has joined the investigation and is not required for further custodial interrogation.

5. Keeping in view the statement made by learned State Counsel the order dated 18.09.2024, is made absolute. The petitioner shall abide by the terms and conditions enumerated in Section 438(2) of Cr.P.C./482(2) of B.N.S.S. Further, the petitioner is directed not to leave India, without prior permission of learned trial Court.

6. The petition is accordingly disposed of.

(HARPREET SINGH BRAR)
JUDGE

02.12.2024
Ajay Goswami

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