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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-52098-2024

Date of decision: 20.11.2024

Vikas

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gaurav, Advocate for
Mr. Rajbir Singh, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. P.S. Ahluwalia, Advocate,
Mr. Sanish Girdhar, Advocate and
Mr. Aakash Deep Singh, Advocate
for the complainant.

HARPREET SINGH BRAR, J. (ORAL)

This petition has been filed under Section 482 of Bharatiya
Nagarik Suraksha Sanhita, 2023 seeking anticipatory bail in case bearing FIR
No.273 dated 19.09.2024 (Annexure P-1) under Sections
74/128(2)/115(2)/351(2) of BNS registered at Police Station Sohana, District
SAS Nagar.

On 21.10.2024, the following order was passed:-

*'Instant petition is preferred under Section 482 of Bharatiya
Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') (earlier Section
438 of Cr.P.C.) seeking anticipatory bail in FIR No.273 dated
19.09.2024 under Sections 74, 126(2) (wrongly mentioned as Section
128(2) in the head note and prayer clause of the petition), 115(2),
351(2) of the Bharatiya Nyaya Sanhita, 2023, registered at Police
Station Sohana, District SAS Nagar (Mohali).*

*Learned counsel for the petitioner, inter alia, contends that the
petitioner was working in salon of the complainant on a monthly
salary of Rs.35,000/- per month and Rs.84,000/- were due with regard
to his salary. It is further contended that the petitioner left his job for
the reason that the complainant refused to pay him the balance
amount. Thereafter, the petitioner called by the complainant to the
salon and there, an altercation took place between them. Moreover,
the maximum sentence provided for the offences, under which the FIR*



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(supra) is registered, is upto 05 years. Even the notice under Section 35(3) of BNSS was not served upon the petitioner.

Notice of motion for 20.11.2024.

*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. The petitioner shall cooperate with the investigation/Arresting Officer and abide by the conditions as provided under Section 482 (2) of BNSS.*

If the Arresting Officer does not permit the petitioner to join the investigation, he would appear before 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 learned trial Court shall decide the same on its own merits, strictly in accordance with law.'

Learned State counsel on instructions from ASI Balvir Singh, at the very outset informs the Court that the petitioner has joined the investigation and his custodial interrogation is not required.

Learned counsel for the complainant vehemently opposes the prayer made by the petitioner on the ground that the entire incident was captured in a CCTV footage and the petitioner was seen smothering the complainant.

In view of the statement of learned State counsel, order dated 21.10.2024 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 482 (2) of BNSS (earlier 438(2) Cr.P.C.).

The petition stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

20.11.2024

Neha

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