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

CRM-M-52758-2024

Date of decision: 22.11.2024

Maninder Kaushik

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Sirat Sapra, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

This second petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking anticipatory bail in case bearing FIR No.217 dated 18.08.2024 (Annexure P-1) under Sections 115(2)/140(3)/351(2) (3) of BNS registered at Police Station PGIMS, Rohtak, District Rohtak and Sections 75/78/127(2) of BNS added later after recording of statement of the complainant under Section 183 of BNSS and Section 140(4) of BNS was replaced with Section 140(3) of BNS and Section 143 (2) of BNS was added.

On 23.10.2024, the following order was passed:-

‘ This second petition is preferred under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short ‘BNSS’) seeking anticipatory bail in FIR No.217 dated 18.08.2024 under Sections 115(2), 140(3), 351(2)(3) of the Bharatiya Nyaya Sanhita, 2023 (for short ‘BNS’), Sections 75, 78, 127(2) of BNS (added later on) and Section 140 (4) of BNS was replaced with Section 140(3) of BNS on the basis of an application seeking re-arrest of the petitioner and Section 143(2) of BNS, which was added later on, registered at Police Station PGIMS, Rohtak, District Rohtak.

The first petition i.e. CRM-M-49111-2024 was disposed of vide order dated 30.09.2024 with a direction to learned Additional Sessions Judge, Rohtak to hear learned counsel for the petitioner through video conferencing and decide the anticipatory bail application of the petitioner expeditiously.

Learned counsel for the petitioner, inter alia, contends that after registration of FIR (supra), the petitioner was arrested and thereafter, he was granted regular bail by learned jurisdictional Court and after his release on regular bail, the Investigating Officer filed an application before learned jurisdictional Court seeking permission to re-arrest the petitioner on the ground that Section 140(3) of BNS is



deleted and Section 140(4) of BNS is added and under newly added Section 140(4) of BNS, arrest of the petitioner is necessary. It is further contended that regular bail of the petitioner has not been cancelled till date and the manner, in which, his re-arrest has been allowed without cancelling the regular bail, is not sustainable in the eyes of law, as there is no legal mandate for issuance of direction for re-arrest the accused-petitioner on addition of certain offence. At the time of arrest also, the petitioner was implicated in the FIR (supra) for the offences, which were non-bailable in nature.

Notice of motion for 22.11.2024.

*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 Meenakshi, 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 23.10.2024 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

22.11.2024
Neha

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