



204 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-57667-2024
Date of decision: 16.12.2024

Sunil SinghPetitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rakesh Kumar, Advocate and
Ms. Gaganpreet Kaur, Advocate for
Mr. Kuldip Singh, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

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.134 dated 31.07.2024 under Section 69 of BNS, registered
at Police Station Sadar Fazilka, District Fazilka (Annexure P-1).

On 20.11.2024, the following order was passed:-

*'Instant petition is preferred under Section 482 of Bharatiya
Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking
anticipatory bail in FIR No.134 dated 31.07.2024 under Section 69 of
the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS'), registered at
Police Station Sadar Fazilka, District Fazilka.*

*Learned counsel for the petitioner, inter alia, contends that the
prosecutrix is a matured and married lady having one child and there
is a delay of 17 days in setting the criminal law into motion, which
creates a serious doubt on the case set up by the prosecution. Further,
a perusal of the allegations against the petitioner would clearly
indicate that the factual ingredients of the alleged offence are clearly
missing and it would be a moot point to be determined by learned trial
Court whether the petitioner has obtained consent of the prosecutrix
under any misconception within the meaning of Section 90 of the
Indian Penal Code, 1860 (now Section 28 of BNS).*

Notice of motion for 16.12.2024.

*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 (erstwhile Section 438(2) of the Code of Criminal Procedure, 1973).

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 Rajwinder Singh, 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 20.11.2024 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

16.12.2024

Neha

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