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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.59664 of 2024
Date of decision: 03.12.2024

Khushpreet Singh ... Petitioner

Vs.

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Jagdish Singh Mahal, Advocate,
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
16	07.02.2024	Sadar Gurdaspur, District Gurdaspur	363, 354, 511 and 34 of IPC (354-A, 354-D in lieu of 354 of IPC and 506 of IPC and 12 of the Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”) added later on)

2. The aforementioned FIR had been registered against the

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petitioner and co-accused Dharampreet on the allegations that on 07.12.2023, they along with some unknown persons had tried to kidnap the minor daughter of the complainant and had also extended threats to him. The petitioner was arrested on 05.06.2024 and was extended benefit of regular bail by the Principal Magistrate, Juvenile Justice Board, Gurdaspur vide order dated 07.06.2024. Subsequently, offences under Sections 354-A, 354-D and 506 of IPC as well as under Section 12 of POCSO Act were added. Apprehending his arrest, the petitioner moved an application for grant of anticipatory bail which was dismissed by the Court of learned Additional Sessions Judge, Gurdaspur vide order dated 25.10.2024.

3. It is argued by learned counsel for the petitioner that since the petitioner has been extended benefit of regular bail previously in the same very case and has not misused the concession thereof and as he is ready to join the investigation qua the additional offences, therefore, he deserves to be extended benefit of pre arrest bail and, therefore, it is urged that the petition deserves to be allowed. In support of his argument, learned counsel for the petitioner has placed reliance upon **Pawan Kumar Gupta v. State (NCT of Delhi)**, 2007 (2) R.C.R. (Criminal) 822 and **Pradeep Ram v. State of Jharkhand and another**, 2019 (3) R.C.R. (Criminal) 538.

4. Per contra, learned State counsel has argued that the petition is not maintainable since the petitioner had previously been extended

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benefit of regular bail and was to be considered to be in constructive custody of law. While placing reliance upon **Manish Jain v. Haryana State Pollution Control Board**, 2020 (20) SCC 123, it is argued by him that the petition is liable to be dismissed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable time and have gone through the record.

6. It is undoubtedly revealed from the record that the petitioner was previously granted benefit of regular bail in the prosecution which was launched against him under Section 363 read with Section 511 of IPC and Section 354 read with Section 34 of IPC. Subsequently, offences under Sections 354-A, 354-D and 506 of IPC and Section 12 of POCSO Act have been added. In **Manish Jain's** case (Supra), it was observed by Hon'ble Supreme Court that a person released on bail is presumed to be in constructive custody of law and if the law requires him to come back to custody for specified reasons, then an application for anticipatory bail apprehending arrest would not lie. In view of the proposition of law as discussed in the aforementioned case, I am of the opinion that the petition is not maintainable. Accordingly, the petition is dismissed. However, if the petitioner surrenders before the learned trial Court within a period of 15 days from today and seeks regular bail, then direction is given to consider the said application on the same very day. It is, however, clarified that such application for regular bail shall be considered on its

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own merits without being uninfluenced by this order.

7. It is, further, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

03.12.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No