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IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-60291-2024 (O&M)
Date of Decision: 17.12.2024

DARSHANA AND ANOTHER

...Petitioners

V/S

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ritesh Pandey, Advocate
for the petitioners.

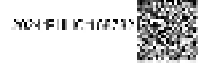
Mr. Sandeep Kumar, DAG Punjab

HARPREET SINGH BRAR J. (Oral)

1. The instant petition has been filed under Section 482 of the Bharatiya
Nagarik Suraksha Sanhita (hereinafter referred to as BNSS) for giving directions
to the Presiding Officer/Arresting Officer to release the petitioners on
anticipatory bail in the event of their appearance/arrest in a case bearing FIR
No.162 dated 23.05.2023 under Section 376 IPC registered at Police Station
Civil Line Batala, District Batala (Gurdaspur).
2. On 02.12.2024, following order was passed:

*“The instant petition has been filed under Section 482 of
the Bharatiya Nagarik Suraksha Sanhita (hereinafter referred to as
BNSS) for giving directions to the Presiding Officer/Arresting Officer
to release the petitioners on anticipatory bail in the event of their
appearance/arrest in a case bearing FIR No.162 dated 23.05.2023
under Section 376 IPC registered at Police Station Civil Line Batala,
District Batala (Gurdaspur).*

*Learned counsel for the petitioner inter alia contends that
the petitioners are not main culprits. The main accused is the husband
of petitioner No.1 and father of petitioner No.2. It is further contended
that no allegation with regard to sexual assault has been levelled
against the petitioners and during investigation, veracity of the*



*allegation against the petitioners was thoroughly examined wherein they were found innocent by the investigating agency, as such, they were placed in column No.2 of the final report submitted under Section 173 Cr.P.C. The statement of the prosecutrix was recorded as PW-1 and thereafter, petitioners were summoned by the learned trial Court as additional accused by invoking power under Section 319 Cr.P.C. It is further submitted that petitioners undertake to join trial proceedings on each and every date. In support of his contentions, he relies upon the judgment passed by a Coordinate Bench of this Court in CRM-M No.13285 of 2015 titled as **Bajinder Singh and another Vs. State of Punjab** decided on 23.07.2015 that it is trite law that custodial interrogation of petitioners is not warranted as they have been summoned under Section 319 Cr.P.C and their presence is required at the time of trial.*

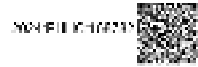
Notice of motion.

On the asking of the Court, Mr. Subhash Godara, Addl. A.G., Punjab, who is present in Court, accepts notice on behalf of the respondent State and opposes the prayer made by the petitioners in the present petition on the ground that when the prosecutrix narrated the incident of rape committed upon her to petitioners, they did not confront the main accused-Kashmir Singh, rather they asked her to keep quiet.

Having heard learned counsel for the parties and in view of the fact that petitioners are only summoned under Section 319 Cr.P.C. as additional accused by the learned trial Court vide impugned order (Annexure P-4), their custodial interrogation is not required. They shall appear before the learned trial Court within a week and on their doing so, they will be released on bail on furnishing of bail/surety bond to the satisfaction of the learned trial Court. In case, they fail to appear before the learned trial Court within the stipulated period as directed by this Court, interim relief granted to the petitioners shall stand automatically vacated.

Adjourned to 17.12.2024.”

3. Office report indicates that notice issued to respondent No. 2 is still awaited and learned State counsel on instructions from ASI Bindu Kumari submits that in compliance of order dated 02.12.2024 passed by this Court,



petitioners have failed to appear before the learned trial Court.

4. Faced with the above, learned counsel for the petitioners submits that he could not communicate the directions issued by this Court vide order dated 02.12.2024, in time to the petitioners. As such, they have not put in appearance before the learned trial Court in compliance to the aforesaid directions and he undertakes to the effect that petitioners will appear before the learned trial Court within the stipulated time period given by this Court and prays for one more opportunity for the petitioners for complying with the order dated 02.12.2024.

5. In view of the above, petitioners are again directed to appear before the learned trial Court in compliance of the order passed by this Court in 02.12.2024, on or before a period of two weeks from today and furnish bail/surety bonds to the satisfaction of the concerned Court, subject to payment of costs amounting to Rs. 10,000/- to be deposited with the *All India Pingalwara Charitable Society, G.T.Road Amritsar.*

6. It is made clear that, in case, petitioners fail to comply with this order, the interim relief granted to the them vide order dated 02.12.2024 shall be deemed to be automatically vacated.

7. The present petition is disposed of in aforesaid terms.

17.12.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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