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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-65531-2024 (O&M)
Decided on : 29.01.2025

BOBI

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Gyan Parkash, Advocate
for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. Naveen Kashyap, Advocate for complainant.

KIRTI SINGH, J. (Oral)

1. Apprehending arrest in FIR No.424 dated 25.11.2024, under Sections 3(5), 78, 75, 126(2), 351(2) and 117(2) of BNS, registered at Police Station Kunjpura, District Karnal, the petitioner has preferred this petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail.

2. Succinct factual narrative relevant for the disposal of this case are that present FIR was lodged by the complainant *M* against the petitioner and co-accused Sawan and Ajay, alleging that she, who works as laborer, became acquainted with the petitioner as he used to visit her house to meet her husband. After objections from her family, he was stopped from visiting. Despite this, the petitioner continued to follow her on her way to work and even attempted to

engage her in conversations, which she repeatedly refused. On 08.11.2024, while

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working in the fields at Village Mainmati, the petitioner, along with Sawan and Ajay, approached her. The petitioner threatened to post her photos and videos on social media and threatened to kill her husband. They also misbehaved with her and fled from the spot after slapping her when people arrived at the spot.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated and he is innocent. It is contended that the present FIR is a counterblast to FIR No. 404 dated 11.11.2024, registered under Section 3(2)(v) of the SC/ST Act and Sections 15, 190, 191(3), 333, and 351(2) of the BNS, which was lodged by the petitioner against Mohit (the brother-in-law of complainant), Sagar, Vicky, Anuj, Sabhu, Panhadi, and 5-7 other persons. The accused in FIR No. 404, wanted to settle the dispute with the petitioner, but when the petitioner refused, the present FIR was lodged to exert undue pressure on him. There is no eyewitness to substantiate the petitioner's involvement in the alleged offence.

4. In compliance to the order dated 07.01.2025, learned State counsel has filed the status report by way of affidavit of Dy. Superintendent of Police, Indir, District Karnal. He submits that the complainant/victim underwent counseling by a Legal Aid counsel on 26.11.2024, after which she voluntarily recorded her statement under Section 183 of BNSS, 2023, before the Learned JMIC, Karnal. In her statement, she reiterated the allegations against the petitioner and co-accused Ajay and Sawan. She alleged that apart from the incident dated 08.11.2024, the applicant/accused Bobby had committed rape upon her on multiple occasions and he had captured photographs and videos, which are being used to threaten the complainant and her family members. The accused also threatened to kill her and her husband. The petitioner's claim that he has been falsely implicated as a counterblast to FIR No. 404 dated 11.11.2024 lodged by him is unfounded. The



investigation of FIR No. 404 of 2024 has been conducted fairly and impartially, resulting in multiple arrests, with others still pending. Given the seriousness of the offence and the likelihood of the petitioner influencing witnesses or tampering with evidence, the State counsel contends that custodial interrogation is necessary for a fair and comprehensive investigation.

5. Heard the rival submissions made by learned counsel for the parties and perused the record.

6. In *Srikant Upadhyay and others vs. State of Bihar and another, 2024 (INSC) 202 (SC)*, Hon'ble Supreme Court held as under:

*“It is thus obvious from the catena of decisions dealing with bail that even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438, Cr.P.C. is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in *HDFC Bank Ltd. v. J.J.Mannan & Anr. 2010 (1) SCC 679*).*

*Further, it was clearly observed in para No.24 of the judgment (supra) that “**though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule.** It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may*



hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.”

7. In ***Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731***, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

8. In ***Siddharam Satlingappa Mhetra v. State of Maharashtra & Ors. reported in (2011) 1 SCC 694*** rendered in the context of the discretion to grant Anticipatory Bail under Section 438, Hon’ble Supreme Court advocated the need to balance individual personal liberty with societal interest and observed:-

“84. Just as liberty is precious to an individual, so is the society’s interest in maintenance of peace, law and order. Both are equally important.”

9. There are serious allegations against the petitioner. The complainant has made specific and consistent allegations of sexual assault, criminal intimidation, and physical assault, which are supported by her statement under Section 183 of BNSS, 2023. Accordingly, to unearth the true dimension of the

as to grant the concession of anticipatory bail to the petitioner at this stage.

10. The petition is dismissed.
11. Needless to mention that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
12. Pending application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

29.01.2025
Kavita

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