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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 1983/2017**

HONEY PREET INSAN Applicant

Through: Mr. Pradeep Kumar Arya, Mr. Bhaskar Bhardwaj, Mr. Raj Karan Sharma, Mr. Kapil Dhaka, Mr. Rana Kunal, Mr. Amresh Anand, Mr. Ashwyn Kalra, Mr. K. K. Chhabra, Advocates.

versus

STATE & ANR. Respondents

Through: Mr. Rahul Mehra, Standing Counsel (Crl.) with Mr. Amit Ahlawat, APP for the State and Mr. Jamal Akhtar, Advocate.

Mr. Anil Grover, AAG with Ms. Noopur Singhal, Advocate for respondent No. 2/ State of Haryana.

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

% **26.09.2017**

Crl. M.A.No.16329/2017 (exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

BAIL APPLN. 1983/2017

1. An application under Section 438 of Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.PC") has been filed for transit anticipatory bail for a period of three weeks on behalf of applicant on the grounds that the applicant is a peace loving, law abiding

citizen, aged about 37 years, natural daughter of Shri Ramanand Taneja and religiously, socially adopted by Saint Gurmeet Ram Rahim Singh Insan, permanent resident of Dera Sacha Sauda, Sirsa (Haryana) also at H. No. A-4, Greater Kailash-II, New Delhi; that on 25.08.2017 when her mentor Saint Gurmeet Ram Rahim Singh Insan was to appear before the Special Judge, CBI, Panchkula to hear pronouncement of the judgment in a case registered against him under Section 376 of the Indian Penal Code, 1860 (hereinafter referred to as "**IPC**"), she had accompanied her father in a car to hear the verdict on which Saint Gurmeet Ram Rahim Singh Insan was taken into custody and ordered to be shifted to jail in Haryana; that due to security reasons, he was shifted to Sunaria Jail, Rohtak, in a helicopter; that she was allowed to accompany her father in a helicopter upto the jail in Rohtak for taking care of his health; that some demonstrations and riots took place in Punjab and Haryana and FIRs were registered.

2. Counsel for the applicant argued that there is a threat to the life of the applicant; that the applicant fears that the drug mafia of the country from the States of Punjab and Haryana may harm her; that the applicant has no connection with the alleged offences and she has not been named in the FIRs; that no notice under Section 160 Cr.PC has been issued to the applicant at her permanent place of residence at Sirsa, Haryana and at regular visiting place at Delhi i.e. A-4, Greater Kailash-II, New Delhi, where entire family stays whenever they visit Delhi.

3. The only prayer made by the learned counsel for the applicant is that since the life of the applicant is in danger, she may be granted protection so that an application for anticipatory bail can be moved before the competent court of jurisdiction i.e. High Court of Punjab & Haryana.
4. On the contrary, Mr. Rahul Mehra, learned Standing Counsel appearing on behalf of the respondent No. 1/State of NCT of Delhi argued that this Court has no jurisdiction to entertain the present application; that the applicant has not furnished any material to show that she has been generally residing at the address stated in the application i.e. A-4 Greater Kailash-II, New Delhi and there is no merit in the application.
5. Learned AAG for respondent No. 2/State of Haryana submitted that the FIR No.345/2017 under Section 120B/121A/145/150/151/152/153 IPC has been registered at Police Station-Panchkula, Sector-5, Haryana; that the applicant is a permanent resident of Sirsa, Haryana which is reflected from the address mentioned on her passport, hence, the present application is liable to be dismissed.
6. Heard.
7. The broad purpose of Section 438 Cr.PC is that where a person accused of commission of a non bailable offence is apprehending arrest, he may be afforded an opportunity to approach a High Court or a Court of Session for an appropriate order of bail before actual arrest. The two factors which entitle a person to seek shelter under Section 438 Cr.PC that *firstly* he must be under a reasonable

apprehension of being arrested and *secondly* that such reasonable apprehension of arrest must arise on accusation of having committed a non bailable offence. Both these factors also determine the court in which an application under Section 438 Cr.PC can be filed.

8. Undoubtedly, anticipatory bail intrudes in the sphere of investigation of crime and some very compelling circumstances have to be made out for grant of anticipatory bail to the person accused of serious offences and the Court must be cautious and circumspect in exercising such power of a discretionary nature.
9. While passing an order under Section 438 Cr.PC, the applicant may be released on bail in the event of his arrest. Such an order may be passed by the Court after considering the following factors:
 - i. the nature and gravity of the accusation;
 - ii. the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;
 - iii. the possibility of the applicant to flee from justice; and
 - iv. where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested, either reject the application forthwith or issue an interim order for the grant of anticipatory bail;
10. It is needless to mention that grant of anticipatory bail under Section 438 Cr.PC is matter of a judicial discretion which have to be exercised on circumspection and the court has to satisfy that the application seeking bail has been made on *bona fide* grounds and

there is no manipulation and manoeuvring on the part of the applicant for artificially creating the jurisdiction for the court. Whenever, an application for anticipatory bail is made before a Court, where an FIR has been lodged elsewhere i.e. outside the territorial jurisdiction of that Court, the Court is duty bound to consider whether the applicant is a regular or bona fide resident of a place within the local limits of that Court and is not a camouflage to evade the process of law. If the Court is not satisfied on this aspect, the application deserves to be rejected without going into the merits of the case.

11. In the instant case, undisputedly, FIR No.345/2017 under Section 120B/121A/145/150/151/152/153 IPC at Police Station-Panchkula, Sector-5, Haryana had been registered on the statement of Sanjeev Mahajan, *Prabhari*, City Dainik Bhasker. It is significant to notice that in the application it has been stated that a lookout notice has been issued in the entire country against the applicant and on 20.09.2017, the Haryana Police included the name of the applicant along with her photograph in the list of wanted persons. The fact that the lookout notice had been issued against the applicant makes it clear that the efforts of the police force to apprehend the applicant has not yielded results.
12. A specific enquiry was made from the counsel for the applicant that if granted protection, whether the applicant would join investigation/surrender, which was answered in the negative. The counsel for the applicant stated that he only had instructions to argue the present application on merits and that he was seeking the

protection of three weeks to approach the High Court of Punjab and Haryana for grant of anticipatory bail.

13. Noticing the above and keeping in view the facts and circumstances of the case that the applicant till now has evaded arrest, discretionary relief should not be granted to the applicant. It appears that the application is not *bona fide* and has been filed with a view to gain time. The prayer of the counsel for the applicant that protection be granted to him so that he may approach the High Court of Punjab and Haryana, is without merit as the applicant had the liberty to avail the remedy before the competent Court.
14. With these observations, the present application stands dismissed. Ordered accordingly.
15. Copy of this order be given dasti under the signatures of Court Master.

SANGITA DHINGRA SEHGAL, J.

SEPTEMBER 26, 2017

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