

124 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-21003 of 2015
Date of decision: July 02, 2015**

Raj Kumar

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Pardeep Bajaj, Advocate
 for the petitioner.

 Mr. J.S. Sekhon, AAG, Punjab
 for the respondent-State.

JASPAL SINGH, J.

The instant petition has been preferred by Raj Kumar under Section 438 of Code of Criminal Procedure seeking pre-arrest bail in case FIR No.133 dated 02.07.2014, under Sections 363 and 366 of IPC registered at Police Station Dakha, District Ludhiana, Punjab.

The instant FIR has been registered on the basis of statement of complainant-Lovely who has unfolded that his sister aged about 16 years, student of 9th Class was sleeping on the intervening night of July 1/2, 2014 with other members of his family. At about 2 o'clock when wife of the complainant woke up, she found the prosecutrix missing from her cot. He informed his brother and parents and tried to locate the whereabouts of the prosecutrix but could not succeed. Having full belief that she has been enticed away by Raj Kumar @ Raju with an intention to perform marriage with her, instant FIR was registered and the investigation was put into motion.

The contention of learned counsel for the petitioner is that the

petitioner has been falsely implicated in the instant case. In fact, prosecutrix was having love affairs with petitioner. Even she also unfolded her love affairs with petitioner to her family members but they did not appreciate it. Rather they extended threats that, in case, she solemnized marriage with the petitioner, he as well as his family members will be eliminated, especially, due to the reason that petitioner as well as the prosecutrix belonged to different castes. It has further been submitted that prosecutrix was never enticed away or kidnaped by petitioner. She left the house of her parents at her own accord and solemnized marriage at Arya Samaj Vaidik Mandal (Regd.) Delhi on September 26, 2014. Petitioner and his wife Ramandeep Kaur @ Sharda Rani were not aware about factum of registration of FIR. Since they were worried about their life and liberty at the hands of the complainant and his other family members, they moved an application seeking protection of their life and liberty before learned District Judge, Ludhiana which was provided to them on May 07, 2015 vide order Annexure P-4. Moreover, petitioner as well as the sister of the complainant (prosecutrix) are living as husband and wife since the date of their marriage. Even prosecutrix is in family way and about to give birth to her first child. Since the petitioner has neither enticed away the prosecutrix from the house of the complainant and prosecutrix has left her house at her own accord and is living happily with the petitioner, no offence either under Section 363 or under Section 366 IPC is made out. Moreover, petitioner is ready to join the investigation and to abide all other terms and conditions imposed by this Court in case he is granted the concession of pre-arrest bail.

On the other hand, learned State counsel has strongly opposed the petition and has submitted that a minor girl has been enticed away by the petitioner without the consent of her parents who is aged about 15/16 years and

alleged solemnization of the marriage is against the settled cannons of law. Instant petition being devoid of merits and is liable to be dismissed.

This Court has given deep thought to the aforesaid submissions made by learned counsel for the parties and perused the records.

As per the allegations prosecutrix is minor and her date of birth, as is evident from the records is July 06, 1998. There are specific allegations that she was kidnapped or enticed away by the accused but could not so far been recovered. Even petitioner is also at large and could not be arrested for the last about one year. The petition is devoid of any merits. Since there are serious and specific allegations against the petitioner, this Court does not find it a fit case to exercise the discretion envisaged under Section 438 of Cr.P.C.

Hence, petition stands dismissed.

July 02, 2015
m. sharma

(JASPAL SINGH)
JUDGE