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

C.R.M-M No.34256 of 2015

Date of Decision : 08.12.2015

Munu and another

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Amjad Khan, Advocate
for the petitioners.

Ms. Amarjit Kaur Khurana, Addl.A.G., Punjab.

Mr. Johnny Goyal, Advocate
for the complainant.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This is a petition for grant of pre-arrest bail to the petitioners under Section 438 Cr.P.C. in case FIR No.187 dated 30.07.2015, registered under Sections 363, 366-A, 120-B IPC, at Police Station Tanda, District Hoshiarpur.

On 15.10.2015 the following order was passed:-

“The petitioners seek grant of anticipatory bail. As per the allegations, the brother of the petitioners enticed Sakina and Meena, who are allegedly minors, on 13.7.2015 to marry

them. It is further mentioned in the FIR that the complainant went to the house of the petitioners where they showed him that they would return the two sisters.

Counsel for the petitioners has argued that the allegations are completely false as against the petitioners. As per him, Sakina the elder daughter of the complainant had eloped with the brother of the petitioners and in a bid to put pressure, the complainant party has secreted Meena somewhere so that this false case of kidnapping can be lodged against the petitioners. As regards Sakina, counsel for the petitioners states that she had approached this Court to get protection. She has also filed a complaint against the complainant under Sections 323, 341, 148, 149, 363, 511, 506 of the IPC.

Counsel for the complainant, as well as learned Addl. A.G. Punjab have reiterated the allegation that the minor girls were spirited away by Makhandeen brother of the petitioners. As per them, the petitioners definitely have the knowledge about the whereabouts of these girls.

Without going into merits of the case, in my opinion it would be in the interest of justice if the petitioners appear before the Investigating Officer on 30.10.2015 or on any other day on which the Investigating Officer requires his presence, and in the event of their arrest, the petitioners shall be released on interim anticipatory bail by the Investigating Officer to his satisfaction subject to the compliance of the provisions as contained in Section 438(2) of the Cr.P.C. Ordered accordingly.

Adjourned to 8.12.2015 to await the report of the Investigating Officer.”

Today the learned Additional Advocate General on instructions from ASI Ajmer Singh states that ultimately the girl Meena was recovered from the custody of the petitioners by a Warrant Officer appointed by this

Court.

Learned counsel for the petitioners has argued that this whole recovery was an orchestrated drama and apart from this the petitioner No.1 is a polio afflicted person who is not able to use his legs and is confined to bed.

At this stage I am unable to come to the conclusion that the whole recovery is an orchestrated drama and the petitioners would be free to prove the same during trial. However as regards the contention of medical incapacity of the petitioner No.1, the learned Additional Advocate General on instructions from the investigating officer has accepted the same.

In these circumstances, without going into the merits of the case, I do not deem it appropriate to deny the concession of anticipatory bail to petitioner No.1. Resultantly, the petition is allowed qua petitioner No.1. The interim order dated 15.10.2015 is made absolute.

As regards petitioner No.2, I see no reason to grant him anticipatory bail. In the circumstances, the petition is dismissed qua him.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

December 08, 2015

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**(AJAY TEWARI)
JUDGE**