

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

CRM-22412 and 22414-2017 IN/AND
CRM-M-22382-2017 (O&M)

Date of decision : 31.08.2017

Kuljit Kaur @ Madhu and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. B.S. Bhalla, Advocate,
for the petitioners.

Mr. A.S. Gill, Sr. DAG, Punjab,
assisted by ASI Kulwant Singh.

Mr. Saurabh Kapoor, Advocate,
for Mr. B.S. Bairagi, Advocate,
for the applicant/respondent No.2.

JITENDRA CHAUHAN, J. (Oral)

CRM-22412-2017

Prayer to implead the complainant as respondent No.2 is allowed. Amended memo of parties is taken on record.

Main case

The petitioners seek pre-arrest bail under Section 438 of the Code of Criminal Procedure, in FIR No.86 dated 23.05.2017, registered under Sections 376, 376-D, 494, 495, 328, 323, 120-B and 420 of the Indian Penal Code (for short, 'the IPC) and Sections 11 and 12 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the SC&ST Act') (added subsequently), at P.S. City South Moga.

The petitioners were earlier granted anticipatory bail by learned

Sessions Judge, Moga, vide order dated 08.06.2017. However, after inclusion of the provisions of the SC&ST Act, the petitioners again approached the Court below, but their bail application was dismissed. Hence, the present petition.

It is contended that the petitioners are the parents-in-law of the complainant. The factum of the co-accused/husband being already married was well within the knowledge of the complainant as is evident from Annexure P-5, the written statement filed on her behalf in a civil suit filed by her father. Initially, the couple had filed a petition before the Sessions Court, Moga, seeking protection as they were apprehending opposition to their marriage from complainant's family. Sections 11 and 12 of the SC&ST Act have been added subsequently, only with a view to harass the petitioners.

On the other hand, learned State counsel, on instructions, does not dispute the fact that on the orders of the Court, the petitioners joined the investigation and they were no longer required for further investigation.

Learned counsel for the complainant states that serious allegations have been levelled against the petitioners. The petitioners and the co-accused husband forced the complainant to have illicit relations with other persons. She was also physically and mentally assaulted and abused in the name of her caste. Learned counsel has also prayed for cancellation of the ad-interim bail granted to the petitioners by this Court vide order dated 21.06.2017.

Heard.

On 21.06.2017, the following order was passed:-

“The petitioners are seeking anticipatory

bail in FIR No.86 dated 23.5.2017 registered under Sections 376, 376-D, 494, 495, 328, 323, 120-B, 420 IPC (later on added sections 11, 12 of SC and ST Act, 1989 vide Rapat No.30 dated 3.6.2017 at Police Station City South Moga, District Moga.

The petitioners are the mother-in-law and father-in-law of the complainant-Geeta Rani. Marriage of Sagar Kanda (son of the petitioners) was solemnized with Geeta Rani on 4.10.2016. Initially apprehending opposition to the marriage, couple had filed a petition before the Sessions Court, Moga seeking protection which was granted vide order dated 4.10.2016. On 30.11.2016, father of Geeta Rani filed a civil suit for declaration that marriage is not valid. Subsequently, FIR No.86 dated 23.5.2017 was registered under Sections 376, 376-D, 494, 495, 328, 323, 120-B, 420 IPC at Police Station City South Moga, District Moga wherein the petitioners and their son were granted anticipatory bail vide order dated 8.6.2017 by the learned Sessions Judge, Moga. In the said order, it was specifically recorded that the petitioners had joined the investigation and they were no longer required for further investigation in this case. Learned counsel for petitioners contends now, the offences under Sections 11, 12 of SC and ST Act, 1989 have been added against the petitioners, as an afterthought to secure the arrest of the petitioners and other co-accused.

Notice of motion for 16.8.2017.

In the event of arrest, the petitioners-Kuljit Kaur @ Madhu and Rajinder Kanda shall be released on interim anticipatory bail to the satisfaction of the Arresting/Investigating Officer, subject to the condition provided under Section 438 (2) Cr.P.C. They are also directed to join the investigation and co-operate with the

Investigation Agency, as and when required.”

The petitioners are the parents-in-law of the complainant. Admittedly, they were admitted to anticipatory bail by the Court of learned Sessions Judge, Moga, vide order dated 08.06.2017, wherein, it has been specifically noticed that the applicants had joined the investigation and they were no longer required for further investigation in the matter. The provisions of the SC&ST Act have been invoked subsequently. It is also evident from the written statement (Annexure P-5), that the complainant was having full knowledge about the marital status of the co-accused/husband. The petitioners have already joined the investigation in pursuance of order dated 21.06.2017.

In view of the above, without expressing any opinion on the merits of the case, the interim bail granted by this Court vide order dated 21.06.2017, is made absolute, subject to furnishing bail bonds/surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

The petition stands allowed, whereas, CRM No.22414 of 2017 is hereby dismissed.

31.08.2017
atulsethi

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No