

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

1. CRM-M-15697-2016

Kali and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

2. CRM-M-33586-2016

Mandu

..... Petitioner

Versus

State of Punjab and another

..... Respondents

3. CRM-M-28506-2017(O&M)

Walli Mohammad

..... Petitioner

Versus

State of Punjab and another

..... Respondents

4. CRM-M-9654-2018

Munu

..... Petitioner

Versus

State of Punjab and another

..... Respondents

Date of decision :-7.8.2018

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Sapan Dhir, Advocate
for the petitioners in
CRM-M-15697-2016 & CRM-M-33586-2016.

Mr.M.K. Sharma, Advocate
for the petitioners in
CRM-M-28506-2017 & CRM-M-9654-2018.

Mr.Dhruv Dayal, Sr.DAG, Punjab.

Ms.Ramandeep Kaur, Advocate for
Mr.Sumeet Goel, Advocate for respondent No.2.

Mr.Amaninder Preet, Advocate
for the complainant.

H.S. MADAAN, J.

Vide this order, I shall dispose of four petitions for grant of pre-arrest bail i.e. **CRM-M-15697-2016** filed by petitioners Kali wife of Salim, Kali wife of Saif Ali and Bhago, **CRM-M-33586-2016** filed by petitioner Mandu, **CRM-M-28506-2017(O&M)** filed by petitioner Walli Mohammad and **CRM-M-9654-2018** filed by petitioner Munu, all of them being accused in FIR No.187 dated 30.7.2015, under Sections 363, 366-A, 120-B IPC and Section 376 IPC(added later on), registered at Police Station Tanda, District Hoshiarpur.

Briefly stated, facts of the case as per prosecution story are that complainant Masqeen Ali son of Jamaldeen, resident of Mohan, Police Station Tanda, District Hoshiarpur, aged about 23 years had got his statement recorded with police of Police Station Tanda, District Hoshiarpur on 30.7.2015 contending therein that on 13.7.2015 at about 6:30 a.m. when

his mother Bano along with his sisters Sakina and Meena, aged about 17 years and 14 years, respectively had gone to village Masiti for bringing the fodder, while he was in City Tanda for selling milk; that at about 8:30 a.m. when he returned home, his mother Bano told him that Sakina and Meena had not returned home, then he searched for them but could not locate them; that he expressed an apprehension that Makhandeen son of Basudeen, resident of Masit Pal Kot, P.S. Tanda had abducted his sisters with an intention to marry; that he along with his mother Bano, cousin Sher Ali and Mohd.Ali went to the house of Makhandeen, where his brothers Rajadeen, Mandu, Munu and Bashir were present; that they gave an assurance that the two girls would be returned but that was not done. According to the complainant, Makhandeen in connivance with his brothers Rajadeen, Mandu, Munu and Bashir had abducted his minor sisters with an intention of marriage by misleading them. A request was made to take action against them. On the statement of complainant formal FIR was registered and the investigation of the case was started. During the course of investigation Sakina was recovered, who got her statement recorded under Section 164 Cr.P.C. stating that she had solemnized Court marriage with Makhandeen with her own consent and had accompanied him since her brother wanted to sell her. Whereas the other sister of complainant, namely, Meena aged about 14 years was recovered from the custody of accused by Warrant Officer appointed by this Court. Offence under Section 376 IPC was added later on in the FIR.

Apprehending their arrest in this case, petitioners/accused had approached the Court of Sessions seeking grant of pre-arrest bail but their

such applications were dismissed by the Court learned Additional Sessions Judge, Hoshiarpur. As such, they have approached this Court asking for similar relief by way of filing separate petitions.

Notice of the petitions was given to the respondents, who put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioners has contended that Sakina is still residing as a wife with Makhandeen and they had obtained protection from this Court and the FIR is totally misuse of process of law, as such the petitioners be granted pre-arrest bail.

After hearing the learned counsel for the parties, I find that both the prosecutrix are stated to be minor. The consent of minor is no consent in the eyes of law. In the order passed by this Court in CRM-M-23155-2015 dated 17.7.2015 in a petition filed by Sakina and Makhandeen, no finding with regard to validity of marriage has been given, rather petition was disposed of directing Senior Superintendent of Police, Hoshiarpur, to consider the representation dated 14.7.2015 in accordance with law after asserting the age of petitioner No.1 and threat perception to them. Therefore, the petitioners cannot take advantage of this fact.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation.

In case of **State represented by the C.B.I. Versus Anil**

Sharma, 1997(4) R.C.R.(Criminal) 268, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Custodial interrogation of the petitioners is definitely required for complete and effective investigation. In case custodial interrogation of the petitioners is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for.

Thus, finding no merits in the petitions, the same stand dismissed.

(H.S. MADAAN)
JUDGE

7.8.2018
Brij

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**