

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-34835 of 2018 (O&M)
Date of decision : November 19, 2018

Lakha Singh

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Vivek Singla, Advocate, for the petitioner
Mr. Dhruv Dayal, Sr. DAG, Punjab for the State
Mr. RK Arya, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

The allegations against petitioner Lakha Singh in this anticipatory bail under Section 438 Cr.P.C. in case FIR No. 13 dated 1.2.2018 under Sections 363, 366-A, 120-B IPC, Police Station Ajnala, District Amritsar (Rural), have been levelled by Partap Singh father of the girl who at the time of occurrence was a minor with date of birth as 3.12.2001.

The precise allegations are that on intervening night of 28/29-1-2018, daughter of the complainant who was lying on her bed along other family members was reported to have disappeared. It is alleged that

petitioner Lakha Singh has enticed the girl along with his co-accused non-applicants Harbans Singh father of the petitioner, Manjit Singh brother and Sabbo mother leading to the registration of the present case.

Mr. Vivek Singla, counsel for the petitioner contends that the girl had appeared before this Court on 27.9.2018 and made statement that she has married with Lakha Singh petitioner on her own sweet will and accord and therefore, prayed for grant of bail.

On behalf of State assisted by Mr. RK Arya, counsel for the complainant and on instructions from ASI Rachhpal Singh, it has been argued that the girl was minor and has been enticed and taken from her house and therefore, in view of the heinousness of the offence disentitles the petitioner to any relief.

Appreciating the submissions, a bare perusal of the allegations shows that the girl at the relevant time was aged around 17 years and has moved out of the house at dead of the night of her own and as per statement taken before this Court on 27.9.2018, she has contracted marriage with the petitioner and as per own stand of the counsel for the complainant, the legality and validity of the said marriage has never been challenged till date. Thus, a debatable issue having arisen as to the fact if the petitioner who is stated to be husband of the minor girl is the legal and lawful guardian or not. Culpability if any shall be determined at the trial. No useful purpose will be served by sending the petitioner behind the bars.

In view of the aforesaid, the present petition is allowed. In the

event of arrest, the petitioner shall be released on interim bail to the satisfaction of arresting/investigating officer till submission of report under section 173 Cr.P.C. (challan). The petitioner shall, however, join the investigation as and when called for and shall also abide by the conditions specified under section 438 (2) Cr.P.C. Thereafter, petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The present petition stands disposed of.

November 19, 2018

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**(Fateh Deep Singh)
Judge**

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No