

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

Criminal Misc. No. M- 39340 of 2017 (O&M)

Date of decision : March 09, 2018

Manoj Kumar and anotherPetitioners

Versus

State of PunjabRespondent

Criminal Misc. No. M- 8200 of 2018 (O&M)

Akshay Kumar and anotherPetitioners

Versus

State of PunjabRespondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Jatinder Pal Singh Smagh, Advocate
for the petitioners (in CRM-M-39340-2017).

Mr. Jagdish Singh Mahal, Advocate
for the petitioners (in CRM-M-8200-2018).

Mr. Anmol Singh Sandhu, AAG, Punjab.

LISA GILL, J.

This order shall dispose of two petitions i.e. CRM-M-39340-2017 and CRM-M-8200-2018.

Petitioners – Manoj Kumar and his wife Ashima (in CRM-M-39340-2017) seek concession of anticipatory bail in FIR No. 171 dated 04.06.2017 under Sections 363, 366A, 120B IPC registered at Police Station Tabri, District Ludhiana.

Petitioners – Akshay Kumar and Manoj Kumar (in CRM-M-8200-2018) pray for bail pending trial in the above said FIR.

Affidavit dated 09.03.2018 of Sh. Lakhvir Singh Tiwana, PPS Assistant Commissioner of Police (North), Ludhiana produced in Court is taken on record subject to just exceptions.

As per the allegations in the FIR, registered on the statement of

the father of the alleged victim, the complainant's daughter whose date of birth is mentioned to be 27.01.2000 had studied up to 10+2. The complainant's wife informed him on 18.04.2017 at about 10.15 a.m. that their daughter had suddenly disappeared from the house. The complainant made inquiries and came to know that his daughter has been made to flee by the petitioners – Manoj Kumar son of Gurdas Ram, his wife Ashima, Manoj Kumar son of Krishan Dass and Akshay Kumar son of Raj Kumar. They conspired with each other to marry of his daughter with petitioner – Manoj Kumar son of Gurdas Ram. The FIR was registered on 04.06.2017.

Learned counsel for the petitioners submits that the alleged victim, in this case, had earlier fled from her home. She was recovered on 17.02.2017. Her statement was recorded before the authorities at Police Station Nadaun, Himachal Pradesh to the effect that she was subjected to ill-treatment at her parental home and she had left her home because of the said ill-treatment. Reference is made to DDR No. 36 dated 17.02.2017 (Annexue P-1 in CRM-M-39340-2017). It is specifically mentioned in the said DDR that she had left her parental home out of her own accord and went to Kalka for outing and then to Parwanoo from where she called her mother, her grandfather and uncle. It is specifically stated that she was not enticed by anyone but due to scoldings etc. meted out to her, she was annoyed and left her parental home in order to find a job. Statement of the complainant (Annexure P-2 in CRM-M-39340-2017) was also recorded in this respect. The complainant stated that his daughter had left home. Information regarding the victim boarding a particular bus was given by the school teacher. The complainant's sister and her husband apprehended the victim from the bus and enquired as to why she had left home. Rather than

disclosing the reason, she dodged them and fled from there as well. The victim was in touch with her mother all this while stating that she would not return home and would only come to take back her ration card and matriculation certificate etc. The complainant stated that they used to talk to his daughter telephonically. She was ultimately recovered by the police at Parwanoo. She disclosed to the complainant that she left home being tired of the daily physical abuse by her uncle - Sonu and Shoku. No suspicion was raised qua anyone at that time. Custody of the victim, it is stated, was handed over to the complainant on 17.02.2017.

The alleged victim thereafter again went missing from her home on 18.04.2017.

Learned counsel for the petitioners vehemently argue that there is no evidence on record to connect the present petitioners with the alleged occurrence. On an earlier occasion, when the victim fled from home, Manoj Kumar son of Krishan Dass had facilitated the said victim to talk to her parents from his mobile phone. The petitioners are total strangers to the victim and have nothing to do with the controversy in hand. The petitioner – Manoj Kumar son of Gurdas Ram, it is argued, is married to the petitioner – Ashima. There is, thus, no question of enticing the victim to marry him. The victim, in this case, has not been recovered till date. The petitioners – Akshay Kumar and Manoj Kumar son of Krishan Dass are in custody. No recovery has been effected from the petitioners.

Petitioners – Manoj Kumar and Ashima (in CRM-M-39340-2017) have joined investigation. All the petitioners undertake to face the proceedings and not abuse the concession of bail, if afforded to them. It is, thus, prayed that these petitions be allowed.

Learned counsel for the State, on instructions from ASI Lakhwinder, informs that despite best efforts, the victim has not been recovered till date. There are specific allegations against the petitioners. However, it is not denied that the victim had earlier left her parental home. DDR and the statement of the complainant (Annexures P-1 and P-2) have been duly verified by the investigating agency though it is submitted that the same has nothing to do with the present controversy. Petitioners – Manoj Kumar and Ashima (in CRM-M-39340-2017) have joined investigation. None of the petitioners are reported to be involved in any other criminal case. There are no allegations on behalf of the State that the petitioners are likely to abscond or that they are likely to dissuade the witnesses from deposing true facts in the Court, if released on bail.

Keeping in view the facts and circumstances noted above but without expressing any opinion on the merits of case, it is considered just and expedient to allow these petitions.

Consequently, order dated 24.10.2017 (in CRM-M-39340-2017) is made absolute subject to further deposit of heavy local surety to the satisfaction of the Arresting Officer/Illaq Magistrate and the petitioners (in CRM-M-8200-2018) be released on bail pending trial subject to their furnishing requisite bail bonds and heavy local surety to the satisfaction of the learned trial Court.

Before parting with this order, it is noticed that the Commissioner of Police, Ludhiana was directed to oversee operations to trace out the victim in this case on 05.12.2017. It is informed by learned counsel for the State that the victim has still not been traced out despite best efforts. The Commissioner of Police, Ludhiana is directed to ensure active steps to be taken for tracing out the victim in this case.

Status report in this matter be filed on or before 16.04.2018.

The file be put up for the said limited purpose.

March 09, 2018

(Lisa Gill)
Judge

rts

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No