

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

CRM-M No.22914 of 2020 (O&M)

Date of decision: 17.08.2020

Nilam Kaur and another

....Petitioners

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Narinder Singh, Advocate
for the petitioners.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of anticipatory bail to the petitioners in FIR No.0307 dated 18.07.2020 registered under Sections 342, 376, 376(2)(a), 376-F, 376(2)N, 120-B IPC, Sections 9, 10, 11 of the Children Marriage Prohibition Act, 2006, Section 6 of the Protection of Children from Sexual Offences Act, 2012, Section 3 of the SC & ST Act and 81 of the Juvenile Justice Act, at Police Station City Tohana, District Fatehabad.

Counsel for the petitioners has relied upon the order dated 07.08.2020 passed by this Court in CRM-M No.22031 of 2020, vide which anticipatory bail was granted to Daljeet Kaur @ Manjeet Kaur. The operative part of the said order reads as under:-

Learned counsel for the petitioner submits that as per the allegations in the FIR, registered at the instance of complainant/prosecutrix 'N' (name withheld), it is stated that she knew co-accused Sombir for the last one year and they were in love affair with each other. Sombir purchased a screen touch mobile phone for her and they started talking to each other. Thereafter, the prosecutrix went to Delhi with Sombir out of her own free will and they stayed in a hotel there. Thereafter, she stayed with Sombir for six months and came back to Tohana, where Sombir told her that he will talk to her family members for their marriage. Then Sombir went to his house, however, the prosecutrix could not go her home as she was afraid and met

petitioner Daljeet Kaur wife of Pardeep Kumar who brought her to her house and on 21.05.2020, they came to the police station and submitted a complaint against her father. The police sent her back with her father and after two days, she again ran away from home and went to the house of Daljit Kaur, thereafter she was contacted by Sombir on mobile phone. On 15.06.2020, with the help of petitioner Daljeet Kaur and his husband Pardeep Kumar, got the marriage of the prosecutrix and Sombir performed at Kali Mata Temple at Jakhal. The said marriage was attended by some persons named in the FIR and the photographs were also taken. Thereafter, the prosecutrix was taken to her in-laws house by Sombir and after one month of marriage, a party was hosted and when she was alone, co-accused Mandeep, who is her Devar (brother-in-law) in an inebriated state raped her for three days.

Learned counsel for the petitioner further submits that there is no allegation against the petitioner that either she has committed any offence or she has helped the accused in committing the offence of rape upon the prosecutrix as it is the own case of the complainant/prosecutrix that she was having a love affair with Sombir for the last about eight months and thereafter, she left her house and stayed with Sombir for about six months. It is only when Sombir brought her back to Tohana to arrange a marriage, she met the petitioner and the petitioner and her husband have only facilitated the marriage of the complainant/prosecutrix with Sombir. Learned counsel for the petitioner further submits that except for this part in the FIR, there is no allegation against the petitioner as the offence of rape was allegedly committed by Mandeep after one month of marriage as detailed in the FIR.

Learned counsel for the petitioner further submits that the petitioner is a lady and has no criminal background and the Additional Sessions Judge has dismissed the bail application of the petitioner only on the ground that when Sombir and Mandeep were arrested, they suffered a disclosure statement that the petitioner managed the said marriage by taking an amount of Rs. 80,000/-, however, this statement cannot override the version given in the FIR by the complainant herself.

Learned State counsel, however, submits that the petitioner is facing two FIRs, i.e. one under Section 380 IPC and the other under Sections 406 and 420 IPC, though she is on bail in both cases.

Learned State counsel further submits that co-accused Sombir and Mandeep have made a disclosure that the petitioner has taken an amount of Rs. 80,000/-.”

Counsel for the petitioners has further submitted that the only allegation against the petitioners are that they were present at the time, when the marriage has taken place and no other allegation is there against them. It is further submitted that the name of the petitioners surfaced in the disclosure statement of two co-accused namely Sombir and Mandeep.

Counsel for the State has not disputed the aforesaid fact, however, opposed the prayer for bail.

After hearing the counsel for the parties, considering the fact that the co-accused of the petitioners namely Daljeet Kaur @ Manjeet Kaur, has already been granted the concession of anticipatory bail, this petition is allowed and the petitioners are directed to appear before the Investigating Officer within a period of 10 days from today to join investigation and they shall be released on interim bail on furnishing bail/surety bonds subject to the following conditions:-

- 1. They shall make themselves available for interrogation by a police officer as and when required;*
- 2. They shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and*
- 3. They shall not leave India without previous permission of the Court.*

(ARVIND SINGH SANGWAN)
JUDGE

17.08.2020
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No