

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-29210 of 2020 (O&M)
Date of decision: September 23, 2020

Kamini

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Tushar Gautam, Advocate for the petitioner.
Mr. S.S. Mann, Additional Advocate General, Haryana.

Ashok Kumar Verma, J.

The matter has been taken up through video-conferencing on account of outbreak of pandemic COVID-19.

The petitioner has approached this Court for anticipatory bail under Section 438 of the Code of Criminal Procedure in case FIR No.903 dated 27.11.2017, under Sections 386, 323, 342, 506, 364-A IPC, registered at Police Station Camp, Palwal, District Palwal.

Brief facts of the prosecution case are that complainant Dev alias Abhishekh son of Raju received a telephone call from phone Nos.9760429858 and 8505989072 on his mobile Nos.8684875230 and 8708917067 and the caller introduced herself as Kamini and asked about his marital status and when he disclosed that he was unmarried, said Kamni (petitioner herein) gave offer of marriage with her daughter Riya alias Kirti. The complainant told her that he would respond after talking to his family members. On 12.11.2017 and 13.11.2017 petitioner again called him. The complainant then helped her talk

with her father on phone. Dinesh and Salman also had conversation with him on phone and they and Kamni informed him that Riya alias Kirti was residing at Noida and offered him to come there to arrange their meeting. Believing the accused, on 20.11.2017 the complainant accompanied accused Dinesh, Salman and Kamni to Noida, who picked him in an Accent car from Alawalpur Chowk, Palwal and took him to Sector 105, Noida. After reaching there, they locked him in a room and all of them extended beatings to him and removed a sum of Rs.17,000/- from his pocket. They made blows of Dandas and gave kicks to him and then took him outside in a car and wandered in the said car for quite some time during the late night. They told him to ask for ransom of Rs.12 lacs from his family members and to give the same to them and he was threatened that otherwise he would be killed. Then complainant made a call to his family members who reached at Noida. The accused demanded Rs.12.00 lacs from them and when they expressed their helplessness to give so much amount, they extended threat to kill him. A sum of Rs.3.00 lacs brought by his father and neighbourers were handed over to the accused persons and then they left the complainant.

Learned counsel for the petitioner contends that petitioner is innocent lady who has been falsely implicated in this case. FIR pertains to the year 2017. There are no specific allegation against the petitioner that she had received any part of the amount of ransom; from the contents of the FIR, no ingredients of offences of offences mentioned in the FIR are made out against the petitioner. Nothing is to be recovered from her. Co-accused Annu, Ramdhan, Smt. Jyoti, Jeet Ram and Rambir have already been granted the concession of regular bail by the trial court, whereas co-accused Amit Kumar has since been granted the concession of anticipatory bail by the trial court

vide order dated 18.7.2019. The petitioner is ready and willing to join the investigation but the police was bent upon to arrest the petitioner just in order to humiliate her.

Per contra, learned State counsel has argued that the petitioner is the main accused who initially made telephonic calls to the complainant asking him to perform marriage with her daughter. It is further submitted that on the asking of petitioner Kamini, complainant went to Noida where he was confined and was asked to make telephonic call to his family members to make demand of Rs.12.00 lacs for his release. It was further argued that amount of Rs.3.00 lacs was taken from the family members of the complainant, part of which has been recovered and the remaining amount is yet to be recovered from the present petitioner, for which her custodial interrogation would be required.

It was next argued that the name of petitioner has been specifically mentioned and as such, there was no question with regard to the identity of the petitioner. He further argued that the petitioner alongwith her family members was involved in similar type of incidents of extracting huge money from gullible persons on the pretext of marriage and FIR No.61 dated 23.1.2018 under Sections 386, 388, 506, 364-A, 120-B and 201 IPC and Arms Act was already lying registered against the petitioner in Police Station Sadar, Palwal. He lastly argued that the part of extorted money is yet to be recovered but the petitioner has been evading the arrest, therefore, her custodial interrogation was very much required in order to elicit the real facts.

I have heard learned counsel for the parties and gone through the relevant record.

Arrest of the petitioner will be a part of the process of investigation intended to secure several purposes as observed by Hon'ble

Supreme Court. The petitioner is to be questioned in detail regarding various facts of the crime. Custodial interrogation of the petitioner may provide information leading to discovery of material facts. Curtailing of his freedom is necessary in order to enable the investigation to proceed with hindrance and to protect witnesses.

In **Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379**, Hon'ble Supreme Court held that anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. (See **D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434**, **State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213** and **Union of India v. Padam Narain Aggarwal (2008) 13 SCC 305**).

Having regards to the totality of facts and circumstances of the case, specific role attributed to the petitioner, I am of the considered view that petitioner cannot prima facie be said to have been falsely enroped in the crime and her custodial interrogation is necessary in the case and that petitioner is likely to abscond and misuse her liberty and does not deserve grant of anticipatory bail.

In view of the above, the petition is dismissed.

(ASHOK KUMAR VERMA)
JUDGE

September 23, 2020
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No