

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

CRM-M No.732 of 2021 (O&M)

Date of Decision: 17.11.2021.

Sabbir

...Petitioner

Versus

State of Haryana & Another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Talim Hussain Advocate,
for the petitioner.

Mr. Apoorv Garg, DAG, Haryana,
for respondent No.1-State.

Ms. Meenakshi Singh, Advocate, for
Mr. M.D.Khan, Advocate,
for respondent No.2.

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MEENAKSHI I. MEHTA, J.

Apprehending his arrest in the criminal case arising out of the FIR bearing No.0426 dated 20.11.2017 registered at Police Station Punhana, District Nuh, under Sections 365, 384 read with Section 34 IPC, the petitioner has preferred this petition for seeking the relief of anticipatory bail.

2. Shorn and short of unnecessary details, the allegations, as levelled by complainant-Madan Mohan in the subject FIR, are that a girl named Asma, along-with her mother, trapped him by initially making phone calls to him and then, by pressurizing him to meet her and thereafter, she, along-with the petitioner and his associates, got him

kidnapped and then, they took Rs.2,00,000/- in cash and two cheques worth Rs.50,000/- each from him while blackmailing him and when one of the said cheques was dishonoured, they threatened to kill him.

3. Reply has already been filed on behalf of the respondent-State by way of the affidavit of the Deputy Superintendent of Police, Ferozpur, Jhirka.

4. I have heard learned counsel for the petitioner as well as learned State counsel (assisted by learned counsel appearing for respondent No.2) in the present petition and have also perused the file thoroughly.

5. Learned counsel for the petitioner has contended that the petitioner had no concern with and no role to play in the alleged crime and he has been falsely nominated as an accused in this case and moreover, the above-named complainant has already sworn an affidavit, i.e. Annexure P-2, deposing therein that the petitioner was not involved in the commission of the offence in the present case and in these circumstances, he (petitioner) deserves the relief as sought in the instant petition.

6. Per-contra, learned State counsel has argued that the complainant had specifically named the petitioner as an accused in the said FIR with the allegations that he had kidnapped him with the help of his two associates and moreover, his (petitioner's) co-accused Asma has also disclosed the afore-said fact in her disclosure statement and even otherwise, the petitioner has been evading to join in the investigation for

the last about four years, i.e since the registration of the FIR and keeping in view these circumstances, the present petition be dismissed.

7. A bare reading of the FIR Annexure P-1 reveals that the complainant has categorically alleged therein that the petitioner, along-with his co-accused, had kidnapped him. In para No.3 of the preliminary submissions in the Reply, it has been deposed that accused-Asma had suffered the disclosure statement Annexure R-1, mentioning therein that the petitioner was actively involved in the commission of the crime.

8. As regards the above-mentioned affidavit Annexure P-2, as claimed to have been sworn by the complainant regarding the petitioner having not remained involved in the alleged crime, the same does not suffice at all to extend the benefit of anticipatory bail to the petitioner because the genuineness and veracity of the same cannot be considered and ascertained at this stage and rather, this aspect can and shall be looked into and adjudicated upon by the trial Court at the appropriate stage after appreciating and evaluating the evidence that may be led on the record during the course of the trial.

9. To cap it all, the said FIR was registered on 20.11.2017 and this fact, itself, makes it crystal clear that the petitioner has been evading to join in the investigation/his arrest for the last almost four years. Further, it has categorically been mentioned in Para no.6 of the Reply that the associates/co-accused of the petitioner, are yet to be got identified by him and hence, his custodial interrogation is required for this purpose.

10. Keeping in view all the above-discussed facts and

circumstances as well as the nature of the offence as alleged to have been committed by the petitioner, this Court is of the considered opinion that he (petitioner) does not deserve the relief of anticipatory bail. Resultantly, the petition in hand stands dismissed accordingly.

11. However, it is clarified that nothing contained here-in-before shall be construed to be an expression of the opinion of this Court on the merits of the case.

(MEENAKSHI I. MEHTA)
JUDGE

17th November, 2021.
seema

<i>Whether speaking/reasoned?</i>	<i>Yes</i>
<i>Whether Reportable?</i>	<i>Yes</i>