

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

210-A

CRM-M-3394-2021

Date of decision: 22.04.2021

Baljit Singh and another

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Sukhdev Singh Khokher, Advocate
for the petitioners.

Mr. Rana Harjasdeep Singh, DAG, Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

Petitioners-**Baljit Singh and Heera @ Sukhjinder Singh** have filed this petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C") for grant of anticipatory bail in case FIR No.84 dated 27.11.2020 registered under Sections 363, 366-A and 120-B of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Dhilwan, District Kapurthala to which Section 376-D of the IPC and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 were added lateron.

While issuing notice of motion on 25.01.2021, Co-ordinate Bench of this Court had granted interim anticipatory bail to the petitioners with direction to join the investigation and the relevant part of the said order reads as under:-

"Learned counsel for the petitioners relies upon the order dated January 18, 2021 passed by this Court in

CRM-M-2319 of 2021 titled as Rupinder Kaur Versus State of Punjab to contend that the prosecutrix had escaped with co-accused Jatinder against whom there are allegations of rape.

Notice of motion for 22.04.2021.

In the meantime, in the event of arrest of the petitioners, they shall be released on ad-interim bail to the satisfaction of the arresting officer. However, the petitioners shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C."

The petition has been opposed by the learned State Counsel. However, no reply has been filed by the respondent-State.

I have heard learned Counsel for the petitioners and learned State Counsel and have gone through the record.

Learned Counsel for the petitioners has, while reiterating submissions made earlier, submitted that in compliance with order dated 25.01.2021, the petitioners have joined the investigation and they may be granted anticipatory bail as their custodial interrogation is not required in the case.

Learned State Counsel has vehemently opposed the petition and submitted that in view of gravity of accusation, the petitioners do not deserve grant of anticipatory bail. Therefore, the petition may be dismissed.

However, learned State Counsel has, on instructions from ASI Balwinder Singh, acknowledged that in compliance with order dated 25.01.2021 passed by Co-ordinate Bench of this Court, the petitioners have joined the investigation and that their custodial interrogation is not required in the case.

In view of the facts and circumstances of the case, nature of accusation against the petitioners, the fact that custodial

interrogation of the petitioners is not required in the case and there is no material to justify the apprehension of the petitioners fleeing from justice or tampering with evidence or criminally intimidating the prosecution witnesses, but without expressing any opinion on the merits of the case, I am of the considered view that the petitioners deserve the grant of anticipatory bail.

In view of the above, the petition is allowed and order dated 25.01.2021 granting interim bail to the petitioners is made absolute. However, the petitioners shall join the investigation again if and as and when called upon to do so and shall abide by the conditions enumerated in Section 438 (2) of the Cr.P.C., failing which the protection of anticipatory bail order shall not be available to them.

22.04.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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