

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

-.-

CRM M 19301 of 2021

Date of decision: 18.05.2021

Dilshad Akhtar @ Dilshad Mohammad @ Lamber and anr ...Petitioners

Versus

State of Punjab and another

.....Respondents

Coram: Hon'ble Mr. Justice Rajbir Sehrawat

-.-

In virtual Court

Present: Mr. Brijeshwar Singh Bhalla, Advocate
for the petitioners

-.-

Rajbir Sehrawat, J. (Oral)

The present petition has been filed by the petitioners under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in the newly added Section 376 (D) of the Indian Penal Code and Section 6 of POCSO Act vide DDR No. 35 dated 01.12.2020 at Police Station Dharamkot, District Moga in FIR No. 96 dated 12.06.2019 registered under Sections 366-A, 376, 323, 506 and 120-B of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Dharamkot, District Moga.

It is submitted by counsel for the petitioners that with the same allegations, the petitioners were granted bail pending trial. However, by picking up the earlier statement recorded by the prosecutrix, some more sections have been added against them. Hence, the petitioners apprehend

their arrest. Still further, it is submitted by counsel for the petitioners that in fact, it was a matter of run away couple. Petitioner No. 2 (Gurwinder Singh alias Bunty) has already married the prosecutrix. A statement to this effect was made by the prosecutrix even in the earlier petition filed by the petitioner before this Court. The couple is happily residing as husband and wife. There is no other case against the petitioners. Hence, the petitioners deserve to be protected against their arrest.

Notice of motion.

Mr. P S Walia, AAG, Punjab accepts notice on behalf of the State and Mr. Shavender Singh, Advocate has put in appearance on behalf of the prosecutrix/complainant.

Counsel for the State, being instructed by ASI Paramjit Kaur, submits that on the basis of the available evidence, Sections 376(D) IPC and Section 6 of the POCSO Act, 2012 have been added now. The police need to investigate these offences as well. Hence, the petitioners do not deserve concession of anticipatory bail. However, it is undisputed that earlier the petitioners were granted bail pending trial and there have been no misuse of concession of bail, as such.

Counsel for the prosecutrix/complainant has reiterated her statement that she has married petitioner No. 2 and is happily residing with him as his wife. He has also stated that the prosecutrix has no objection, if the petitioners are granted anticipatory bail.

In view of the above submissions, but without commenting upon merits of the case, the present petition is allowed. The petitioners are granted concession of anticipatory bail. Therefore, it is directed that in case

of their arrest, they shall be released on bail subject to their furnishing bail bounds/surety bonds to the satisfaction of the Arresting/Investigating Officer. However, it is further directed that the petitioners shall join the investigation as and when called upon to do so and shall abide by the conditions, as provided under section 438 (2) Cr.P.C.

(Rajbir Sehrawat)
Judge

18.05.2021
Mohan Bimbura

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