

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

203

CRM-M-33792-2020 (O&M)

Date of decision: 09.02.2021

Sukhwinder Singh @ Lucky

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Jitender Singh Dadwal, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

CRM-26619-2020

For the reasons mentioned in the application, the same is allowed and copy of order dated 25.09.2020 passed in CRWP-6912-2020 is taken on record as Annexure P-3.

CRM-M-33792-2020

The petitioner has filed the present (first) petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C") for grant of anticipatory bail in case FIR No.0163 dated 31.08.2020 registered under Sections 363 and 366-A of the Indian Penal Code, 1860 at Police Station Sahnewal, District Ludhiana.

While issuing notice of motion on 02.11.2020, Co-ordinate Bench of this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and the relevant part of the said order reads as under:-

"Learned counsel for the petitioner submits that no offence punishable under section 363, 366-A IPC, is made

out against the petitioner. The alleged victim had solemnized marriage with the petitioner and as of date, she is residing with the petitioner. Though disputed, but it is submitted that if at all, the petitioner can at best be liable under the Prohibition of Child Marriage Act, 2006.

Notice of motion.

Mr. Hittan Nehra, Addl.AG., Punjab, accepts notice on behalf of the respondent-State. Advance copy of the petition stands served.

At request, adjourned to 06.11.2020.

In the meanwhile, the petitioner shall appear before the Investigating Officer and join investigation. In the event of his arrest, the petitioner shall be released on bail to the satisfaction of Investigating Officer. Petitioner shall comply with the conditions stipulated in Section 438(2) Cr.P.C."

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

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

Learned Counsel for the petitioner has while reiterating the submissions made on 02.11.2020 submitted that in compliance with order dated 02.11.2020, the petitioner has joined the investigation.

On the other hand, learned State Counsel has vehemently opposed the petition and submitted that in view of gravity of accusation, the petitioner does not deserve grant of anticipatory bail and the petition may be dismissed.

However, learned State Counsel has, on instructions from ASI Kulwinder Singh, acknowledged that in compliance with order dated 02.11.2020 passed by Co-ordinate Bench of this Court, the petitioner has joined the investigation and that his custodial

interrogation is not required for effecting any recovery.

In view of the facts and circumstances of the case, nature of accusation against the petitioner, the fact that custodial interrogation of the petitioner is not required in the case and there is no material to justify the apprehension of the petitioner 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 petitioner deserves the grant of anticipatory bail.

In view of the above, the petition is allowed and order dated 02.11.2020 granting interim bail to the petitioner is made absolute. However, the petitioner 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 him.

09.02.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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