

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

102

**CRM-39371-2021 and
CRM-39370-2021 in/and
CRM-M-42426-2021
Date of decision: 23.11.2021**

Jamil MohhamandPetitioner
Versus
State of Haryana and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Balwinder Singh, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-39371-2021

Prayer in the instant application is for advancing the date of hearing of main case from 31.03.2022 to some early date.

Heard.

For the reasons mentioned in the application, the same is allowed and the main case is taken up for hearing today itself.

CRM-39370-2021

Prayer in the instant application is for placing on record the FSL report of the prosecutrix (daughter of the petitioner) as Annexure P-13.

The application is allowed and the FSL report of the prosecutrix is taken on record as Annexure P-13 subject to all just exceptions.

CRM-M-42426-2021

Learned counsel for the petitioner contends that respondent No.2 was not entitled to the concession of anticipatory bail in the wake of his involvement in case FIR No.147 dated 31.10.2020 under Sections 363, 366-A, 506, 376(2)(N) and 120-B IPC and Section 6 of the POCSO Act registered at Police Station Raipur Rani, District

Panchkula.

It has been contended that no doubt respondent No.2 had been found innocent during investigation and placed under column No.2, and summoned to face trial only subsequently under Section 319 Cr.P.C., however, as there were serious allegations against him of helping the main accused Abdul Rehman, in enticing away the victim, aged 16 years, on the pretext of solemnizing marriage, the extraordinary concession of anticipatory bail should not have been extended to him. It has still further been submitted that since respondent No.2 is out on bail, there was every likelihood that he would influence the witnesses to depose in his favour and could also tamper with evidence. A prayer has, therefore, been made to set aside the impugned order dated 27.09.2021 (Annexure P-10) passed by the learned Additional Sessions Judge, Panchkula vide which respondent No.2 was granted anticipatory bail as it is perverse on the face of it.

Heard.

Since respondent No.2 was found innocent by the investigating agency during investigation and was summoned only subsequently under Section 319 Cr.P.C., a strong case would have to be made out for setting aside the impugned order vide which he was extended the concession of anticipatory bail.

Learned counsel, however, has failed to bring to the notice of this Court any breach of conditions by respondent No.2, which were imposed on him by the learned trial Court, subsequent to his release vide the impugned order. Still further, the concession of bail once

granted, should be cancelled only if the order on the face of it is illegal and perverse and has been passed contrary to the evidence on record. Learned counsel has failed to satisfy this Court in this regard as well.

It would be apposite to observe that respondent No.2 has been summoned to face trial under Section 319 Cr.P.C., subsequent to the deposition of the victim before the trial Court, wherein she deposed against him to the effect that he along with co-accused Abdul Rehman had pressurized her to leave her home and had then left both her and co-accused Abdul Rehman at the Bus Stand on a motorcycle after extending threats to her. Thereafter, she and co-accused Abdul Rehman had travelled in a bus to Kundli, where she was allegedly raped by co-accused Abdul Rehman. The contention of the learned counsel that respondent No.2 could influence witnesses to depose in his favour and tamper with evidence as he was now on bail in the above background lacks merit because had it been so, there was nothing which prevented respondent No.2 from influencing the victim to depose in his favour, when perhaps he had the best opportunity to tamper with evidence or influence her.

The instant petition being devoid of any merit is dismissed.

However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

23.11.2021

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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