

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(106)

CRM-M-7650-2022

Date of Decision: 23.2.2022

Bharo @ Paru & another

--Petitioners

Versus

State of Punjab & another

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. R.K. Arya, Advocate for the petitioners.

RAJESH BHARDWAJ.J (Oral)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

The present petition has been filed under Section 438 Cr.P.C for grant of anticipatory bail to the petitioner in FIR No.0174 dated 18.8.2020 registered under Section 366-A IPC (later on sections 376, 109 IPC and section 4 of POCSO Act were added) at Police Station, Mahilpur, District Hoshiarpur.

The brief facts of the case are that the present FIR was lodged by the complainant Mugdu Din. Sum and substance of the allegations made in the FIR is that complainant had 4 daughters and 2 sons. His youngest daughter (name concealed) was 15 years old. On 15.8.2020 she was sleeping with the family in the backyard. When the complainant woke up at 3 AM he found her missing. They searched for her but despite their best efforts they failed to trace her. Complainant suspected that Lalu son of Faqir, Shonki (daughter of Lalu) Billa, Kayia and Shamu have enticed away his daughter in order to marry her.

During investigation statement of the prosecutrix under Section

164 Cr.P.C was recorded. Both the petitioners were specifically named by

the prosecutrix in her statement. Petitioners approached learned Addl. Sessions Judge, Hoshiarpur for grant of bail. However, after hearing both the sides the same was declined vide order dated 19.8.2021. Aggrieved by the same both the petitioners have approached this Court for grant of bail.

Learned counsel for the petitioners has vehemently contended that petitioner no.1 is not even named in the FIR. So far petitioner no.2 is concerned, there is no role attributed to him. He has submitted that the statement of the prosecutrix recorded under Section 164 Cr.P.C is after due deliberations and hence the petitioners are falsely implicated in this case. Counsel further submits that one of the co-accused Billa was apprehended and faced trial. Upon culmination of the trial the co-accused Billa was acquitted by the court of learned Addl. Sessions Judge, Hoshiarpur vide order dated 22.12.2021. Counsel submits that there are similar allegations against the present petitioners and hence they deserve to be granted the benefit of anticipatory bail.

I have heard learned counsel for the parties and have gone through the records made available.

It is apparent that the incident in question took place on 15.8.2020 and the FIR was registered on 18.8.2020. The names of both the petitioners were specifically mentioned by the prosecutrix in her statement recorded under Section 164 Cr.P.C. From the observations made by learned Addl. Sessions Judge, Hoshiarpur in the order dated 22.12.2021 it is apparent that both the petitioners are avoiding their arrest till date and are absconding from the clutches of the investigating agency. Hon'ble Supreme Court in case of ***Prem Shankar Prasad Vs. State of Bihar, 2021 SCC Online SC 955*** has clearly held that if accused are absconders there lies

no anticipatory bail in such cases. The case in hand squarely falls within the same category. The petitioners being at large till date do not deserve any concession from this Court.

The petition being devoid of any merit is dismissed.

(RAJESH BHARDWAJ)
JUDGE

23.2.2022

lucky

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No