

CRM-M-8940-2021

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(205)

CRM-M-8940-2021

Date of decision:- 21.03.2022

Joseph

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Naamparkash Singh Sandhu, Advocate
for the petitioner.

Mr. A.S.Gill, Senior DAG, Punjab.

...

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 seeking pre-arrest bail in FIR No.2 dated 02.01.2021, registered for offences under Sections 363 and 366-A of the Indian Penal Code, 1860 (Sections 376 and 120-B, IPC and Sections 3 & 4 of the Protection of Children from Sexual Offences Act, 2012, were added later on), at Police Station City Kapurthala, District Kapurthala, Annexure P-1.

FIR, Annexure P-1, has been registered on the statement of the father of a 16 year old school going girl (hereinafter referred to as “the prosecutrix”) on the allegation that she left her home in the noon on 01.01.2021 on the pretext of going to a book shop, but did not return. Her phone is switched off and despite extensive search, he has not been able to locate her. The complainant suspects that Daljit Singh has enticed her on the pretext of marriage.

While granting interim anticipatory bail to the petitioner, this Court passed the following order on 31.08.2021:-

“This is a petition that has been filed for grant of anticipatory bail to the petitioner in FIR No.2 dated 02.01.2021 under Section 363 & 366-A IPC (Section 376, 120-B IPC and Section 3 & 4 of POCSO Act added later on) registered at Police Station City Kapurthala, District Kapurthala.

Counsel for the petitioner would contend that there is no allegation against the petitioner of sexual assault. Even in the statement of the prosecutrix recorded under Section 164 Cr.P.C, she has not made any allegation against the petitioner.

List on 21.01.2022.

The petitioner is directed to join the investigation within a period of one week and on his doing so, the petitioner be released on interim bail subject to his furnishing personal/surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall continue to 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.”

Upon instructions from ASI, Kulwinder Singh, State counsel submits that there is no allegation of sexual assault against the petitioner and the role ascribed to him on the basis of the statement recorded by the prosecutrix is that he was accompanying the main accused, who had allured her and he along with the co-accused spent entire money, which she was carrying. Still further, he submits that pursuant to order passed by this Court, the petitioner has joined the investigation and he is no longer required for custodial interrogation.

In view of the above, petition is allowed. Order dated 31.08.2021 is made absolute, subject to the conditions laid down in Section 438 (2) of the Code of Criminal Procedure.

21.03.2022
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No