203/2 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

Date of Decision: 28.04.2022

CRM-M-8895-2022

HARBHAJAN SINGH **... PETITIONER**

V/S

STATE OF PUNJAB AND OTHERS **... RESPONDENTS**

CRM-M-8954-2022

RAJ KAUR **... PETITIONER**

V/S

STATE OF PUNJAB AND OTHERS **... RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. B.S.Bhalla, Advocate for the petitioners.
Ms. Ruchika Sabherwal, AAG Punjab.
Ms. Harleen Ahluwalia, Advocate for respondent Nos.2 and 3.
* * *

VIVEK PURI, J. (ORAL)

On 03.03.2022, following order was passed:

"By these petitions, the petitioners seek the concession of 'anticipatory bail' under the provisions of Section 438 of the Cr.P.C., upon FIR No.144 dated 12.07.2021, having been registered at Police Station Sadar Shri Muktsar Sahib, District Sri Muktsar Sahib, alleging therein the commission of offences punishable under the provisions of Sections 363, 366-A, 120 of the IPC (later on added Section 376 IPC) and Sections 3/4 of Protection of Children from Sexual Offences Act, 2012.

Learned counsel for the petitioner submits that in fact after the FIR was registered, the son of petitioner Raj Kaur (brother of petitioner Harbhajan Singh) had got married to respondent No.3, on the strength of which the said son/brother of the petitioner has been admitted to bail under the provisions of Section 439 of the Cr.P.C. vide an order passed by this court on 15.12.2021 in CRM-M-51600-2021 (copy annexed as Annexure P-4).

In fact, it is seen that in the said order, it is recorded that Balwant Singh (petitioner in that case) intended to marry the alleged victim; but Mr. Bhalla points to Annexure P-5

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with this petition, which is seen to be a copy of a marriage certificate showing that the marriage took place on 23.12.2021 between Balwant Singh and Rema Kaur (respondent No.3).

That being so, notice of motion is issued.

Mr. Rana Harjasdeep Singh, DAG, Punjab, accepts notice at the asking of the Court on behalf of respondent No.1-State.

A copy of the petition be handed over to counsel for the respondent-State during the course of the day.

Adjourned to 28.04.2022.

Notice be also issued to respondents No.2 and 3 for the date fixed.

In the meanwhile, upon the petitioners (in both cases) joining investigation within one week, in case they are sought to be arrested, they would be released on bail, on their furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate. They shall abide by the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner(s) in investigation, they would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join them in investigation, in terms of the order of this court.

A photocopy of this order be placed on the file of other connected case.*"*

It has been stated by learned counsel for the petitioners that the petitioners have joined the investigation in pursuance of the interim directions issued by this Court. Raj Kaur is the mother and Harbhajan Singh is the brother of Balwant Singh, co-accused. The allegations of commission of rape have been attributed to Balwant Singh. The only allegation against the petitioners is to the effect that the crime was committed with their connivance. However, the prosecutrix after attaining the age of majority has solemnized marriage with Balwant Singh and he has been granted regular bail by this Court. Furthermore, a separate petition for quashing the FIR on the basis of compromise has also been instituted.

Learned State counsel, on instructions of ASI Balwant Singh has stated that the petitioners have joined the investigation and their

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custodial interrogation is not required.

Ms. Harleen Ahluwalia, Advocate has put in appearance on behalf of respondent Nos.2 and 3 and she has not disputed the factual aspect as asserted by the learned counsel for the petitioners.

In these set of circumstances, sufficient exceptional circumstances are made out to extend the concession of pre-arrrest bail to the petitioners. The order dated 03.03.2022 is made absolute.

The petitions stand allowed.

(VIVEK PURI)
JUDGE

28.04.2022
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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