

CRM-M-26461-2021

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210/1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26461-2021
Date of Decision: 19.09.2022

TABREJ

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. J.S.Jaidka, Advocate for the petitioner.

Ms. Ruchika Sabherwal, DAG Punjab.

Mr. Liaqat Ali, Advocate for the complainant.

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VIVEK PURI, J. (ORAL)

Present petition under Section 438 Cr.P.C. is for seeking anticipatory bail to the petitioner in case FIR No. 94 dated 23.05.2021, registered under Sections 360, 366-A, 120-B IPC at Police Station Tibba, District Ludhiana.

On 12.07.2021 following order was passed:

“Learned counsel for the petitioner submits that the petitioner herein has been falsely implicated in the instant FIR. It is, *inter-alia*, argued that in fact the instant FIR is not sustainable on the ground that the petitioner had solemnized marriage with the daughter of the complainant. It is argued that they had both sought protection from this Court, which was allowed vide order dated 25.5.2021 (Annexure P/3). It is further contended that a fact that the daughter of the complainant is a minor would not stand in light of the fact that under the Sharia law a girl who has attained puberty would be considered major. It is also submitted that custodial

interrogation of the petitioner would not be required as no recovery is to be effected from him and he is ready to join the investigation.

Notice of motion.

Mr. Amit Mehta, Sr. DAG, Punjab, who is present through the medium of video conferencing, accepts notice on behalf of the respondent—State and seeks time to file reply.

Adjourned to 13.12.2021.

Meanwhile, the petitioner is directed to join the investigation within a period of one week and on his doing so, in the event of arrest the petitioner be released on interim bail 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.”

Learned counsel for the petitioner contends that the petitioner has joined the investigation in pursuance of the interim directions issued by this Court and even at present the victim is residing with the petitioner as his wife in the matrimonial house. Even in the statement under Section 164 Cr.P.C., the victim has stated that she has solemnized marriage with the petitioner and has refused the medical examination.

Learned State counsel has not disputed the aforesaid factual aspect as asserted by the learned counsel for the petitioner and further contends that the petitioner has joined the investigation and his custodial interrogation is not required.

Learned counsel for the complainant has opposed the bail application on the score that the protection petition was filed in the Court of Sessions on the basis of forged Aadhar Card depicting the wrong date of birth of the victim.

Be that as it may, even in the aforesaid order vide which interim bail was granted, it has been observed that even the minority of the victim (daughter of the complainant), will not stand in the light of the fact that under the Sharia law a girl who has attained puberty would be considered a major. Moreover, the petitioner has joined the investigation in pursuance of the interim directions of this Court and his custodial interrogation is not required.

Keeping in view the entire circumstances on record, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, the interim bail granted by this Court vide order dated 12.07.2021 is made absolute.

The petition stands allowed.

19.09.2022

Janki

**(VIVEK PURI)
JUDGE**

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