

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215+108

CRM-M-49001 of 2021 (O&M)

Date of decision:29.03.2022

Malkit Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Harlove Singh Rajput, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

Mr. Pranshul Dhull, Advocate
for the victim.

SUVIR SEHGAL, J. (Oral)

CRM No.4852 of 2022

For the reasons given in the application, it is allowed.

Affidavit dated 12.01.2022 of the victim is taken on record as
Annexure P-7.

CRM-M-49001 of 2021

Instant petition has been filed under Section 439 Cr.P.C
seeking grant of regular bail to the petitioner in case FIR No.243 dated
29.09.2021 registered under Sections 346, 365, 120-B of Indian Penal Code,
1860 at Police Station Ranjit Avenue, District Amritsar (Annexure P-1).

As per the case of the prosecution, FIR (Annexure P-1) has been registered on the statement of father of 22 years old girl (hereinafter referred to as “the victim”) on the allegation that on 11.09.2021, she left for her work place on her scooter but did not return. The complainant suspected that she has been abducted by Pardeep Singh @ Mannu in conspiracy with Malkit Singh (present petitioner).

Counsel for the petitioner submits that the victim, who has attained the age of majority, has married Pardeep Singh, son of the petitioner on 02.11.2021. He has placed reliance upon the Marriage Certificate (Annexure P-3) as well as photographs (Annexure P-4). Reference has also been made by counsel to the joint representation (Annexure P-5) moved by Pardeep Singh as well as victim seeking protection from the parents of the victim. Counsel submits that a joint petition was filed before this Court, which was disposed of vide order dated 10.11.2021 (Annexure P-6). Counsel has also invited attention of this Court to the affidavit dated 12.01.2022 (Annexure P-7) of the victim, which is reproduced as under:-

“1. That the deponent is a law abiding citizen of India and is a resident of the above mentioned address. The deponent got married to one Pardeep Singh son of Malkit Singh on 02.11.2021. Deponent had eloped with her now husband out of her free will and solemnized her marriage against the wishes of her family members. The deponent alongwith her husband, both under the apprehension of threat to their life and liberty

made a representation to Commissioner of Police, Police Commissionerate Amritsar as well as to the local SHO on 06.11.2021. Thereafter, the deponent alongwith her husband filed a CRWP No.10582 of 2021 before the Hon'ble Punjab and Haryana High Court whereby protection was granted to the couple vide order dated 10.11.2021.

2. That the deponent in her representation as well as the protection petition filed before the Hon'ble High Court had clearly mentioned that the couple had run away without informing their family members in September, 2021 and stayed in a live-in-relationship till October, 2021 and thereafter entered into the secret matrimonial bondage on 02.11.2021 in Mansa Devi Mandir, Sector 4, Panchkula. The deponent also specifically mentioned that she had got married with her own free will and consent and without any pressure from her husband and also stated that there is no direct or indirect involvement of the family of her husband.

3. That the father of the deponent namely Gurjinder Singh son of Dhir Singh got registered an FIR No.243 under Sections 346, 365, 120-B of IPC at Police Station Ranjit Avenue, District Amritsar whereby, the father-in-law of the applicant was arrested under the false and frivolous complaint/FIR lodged by the father of the applicant. Accordingly, a bail petition CRM-M-49001 of 2021 has been filed by the father-in-

law of the deponent which is now pending for 13.01.2022 before the Hon'ble Punjab and Haryana High Court.

4. That deponent is not safe and does not want to visit Amritsar due to the threat of her life and liberty. The deponent cannot rely over the Local Investigating Agencies of Amritsar as they are the one who have falsely implicated the father-in-law of the deponent and have not acted upon the representation filed by the applicant.

5. That the deponent has no objection whatsoever if the father in law of the deponent namely Malkit Singh is granted the concession of regular bail and has no objection if the proceedings against the father-in-law and her husband and (sic are) quashed/dropped.

6. That the deponent had also moved an application before Id. CJM, Chandigarh on 11.01.2022 to get her statement recorded, however, the same has been dismissed, though order has not been supplied either to the deponent or to her counsel and has not been uploaded on the e-Courts.”

Upon instructions from ASI Gurbhej Singh, while opposing the petition, State counsel submits that factum of marriage has been verified and has been found to be correct. Still further, he submits that challan has been presented against the petitioner on 28.11.2021 but charge has not been framed.

Counsel for the victim submits that she left her paternal home

of her own volition and has married the son of the petitioner.

Having heard counsel for the parties, this Court is of the view that complicity of the petitioner in the alleged offence would remain subject matter of the debate before the Trial Court and the petitioner, who is in custody for the last six months, would be entitled to be released on bail.

Without examining the arguments raised by counsel for the parties, the petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

Considering the fact that statement of the victim is yet to be recorded, victim is directed to appear before the Chief Judicial Magistrate, Chandigarh within a period of two weeks from today and get her statement recorded. In case, she does so, a report be sent to this Court by the Chief Judicial Magistrate, Chandigarh in a sealed cover.

March 29, 2022

savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes