

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-52009-2022
Date of Decision:17.11.2022**

FATO @ FATI AND OTHERSPetitioner

VS

STATE OF PUNJAB AND ANOTHER ...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. G.S. Verma, Advocate for the petitioners.

Mr. Kunwarbir Singh, Asstt. A.G., Punjab.

Mr. Amandeep Singh, Advocate
for the respondent No.2.

Mr. Virendra Pratap Singh, Advocate
for the complainant.

AMARJOT BHATTI, J. (Oral)

The petitioners namely Fato @ Fati, Shaq Ali and Mauzu have filed the instant petition under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.47 dated 01.10.2022 under Sections 365, 120-B, 148 and 149 of IPC registered at Police Station Rawalpindi, District Kapurthala, (Punjab).

As per the facts of the case, Sappa gave a statement to the Police that he belongs to Gujjar community. He is earning his livelihood by selling milk. In the month of February, 2022, he got married with Khurshad daughter of Jamat Ali @ Billa, they also took protection from the Hon'ble High Court as her parents were against their marriage. He took his wife to Village Bhabiyana, Himachal Pradesh about 20 days ago. On 30.09.2022 at about 9:00 AM, he and his wife along with his

nephew Mustaq Ali were grazing the cattle towards Village Bablia across the road. When they reached near the cremation ground at about 9:30 AM, a Tata Sumo Car bearing No.PB-08-AA-2453 came and stopped there. Out of which Taroo, Tega, Shaq Ali and Mauzu armed with “Dandas and Gandasa” accompanied by four other unknown persons with muffled faces also armed with “Daang and Gandasa” came. The unknown persons attacked on him and when he run away towards cremation ground to save his life and the other accused caught hold his wife Khurshad and dragged her in the Car and took her towards Bandolai side. He raised alarm and one Inderjit Singh came on a motorcycle. They tried to chase Tata Sumo vehicle but could not be traced. His wife was kidnapped by her parents and relatives in connivance with each other. With these allegations, the present FIR has been registered.

Learned counsel for the petitioners argued that they have been falsely implicated in this case. In fact, Khurshad was already married and Sappa performed second marriage without dissolution of first marriage. No specific role is attributed to the present petitioners. Earlier Jamat Ali had filed Writ of Habeas Corpus bearing No. 11967-2021 before the Hon’ble High Court alleging that respondent No.2 was illegally confined by complainant-Sappa. Ultimately, the said petition was disposed of vide order dated 18.02.2022. Due to the matrimonial dispute and cruelty caused by Sappa and his family Khurshad has returned back to her parental house on 30.09.2022. Now they have being harassed by Sappa and his family members. On 30.09.2022, Sappa along with his companions came and trespassed the house of Zuna and Khurshad and caused them injuries

regarding which another FIR No.74 dated 04.10.2022 was registered at Police Station Sadar, Phagwara. They are ready to join the investigation. It is prayed that their anticipatory bail application may be allowed.

Bail application is opposed by learned counsel representing the State. It is argued that allegations are specific and serious in nature. The present petitioners are yet to join the investigation, their anticipatory bail application was rightly declined by the Learned Additional Sessions Judge, Kapurthala.

Learned counsel representing the respondent No.2 admitted that Khurshad is residing with her parents peacefully.

I have considered arguments advanced before me and I have gone through the record carefully.

It is not disputed that Khurshad was earlier married and she performed another marriage with Sappa and thereafter the father of respondent No.2 filed a Writ of Habeas Corpus bearing No.11967-2021 decided on 18.02.2022, where Khurshad had conceded that she had performed her marriage with respondent No.4 i.e. Sappa without the consent of her parents. Since Khurshad was major it was observed that she was competent to take her own decision. The said petition was accordingly disposed of. Thereafter, the present FIR has been registered with the allegations of abduction of respondent No.2-Khurshad who is also impleaded as party to bail application. It is alleged by her learned counsel that the said victim is residing in her parents house. After this another FIR No.74 dated 04.10.2022 has been registered under Sections 325, 323, 452, 148, 149 341 of IPC at Police Station Sadar, Phagwara. On the statement

of complainant-Zuna mother of Khurshad for forcible entry in the house by Sappa and others and causing them injury. The aforesaid facts clearly indicate that there are various litigations going on between both the parties. The present petitioners are relatives of Khurshad, who at present is residing with her parents. They are ready to join the investigation.

Considering these facts without expressing my mind on the merits of the case, the anticipatory bail filed by aforesaid petitioners is allowed and they are ordered to be released on bail on furnishing personal bonds along with surety bonds, to the satisfaction of the Illaqa Magistrate/ Duty Magistrate concerned subject to the conditions under Section 438 (2) of Cr.P.C.

The petition is accordingly disposed of.

17.11.2022

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No