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

CRM-M-1402-2023
Date of Decision: 17.03.2023

Ali Hussain and others

....Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Ghulam Nabi Malik, Advocate for
for the petitioners.

Mr. Harjinder S. Sidhu, AAG, Punjab.

HARSH BUNGER, J. (Oral)

Prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioners in case FIR No.44 dated 08.05.2022 (Annexure P-1), under Sections 120-B, 365 and 451 of the Indian Penal Code, registered at Police Station Division No.1, Police Station Division No.1, Pathankot, District Pathankot.

On 30.01.2023 the following order was passed by this Court :-

“Present petition under Section 438 Cr.P.C. is filed for grant of anticipatory bail to the petitioners in case FIR No.44 dated 08.05.2022 (Annexure P-1), under Sections 120-B, 365 and 451 IPC, registered at Police Station Division No.1, Pathankot, District Pathankot.

Learned counsel for the petitioners submits that the marriage of Summa (sister of petitioner No.1) was performed with petitioner No.4 on 13.03.2022, in the presence of witnesses

in accordance with the personal law, and to substantiate the same, he referred to Nikah Nama dated 13.03.2022 and photographs of marriage (Annexures P-2 and P-3, respectively). It is submitted that on 10.04.2022, Summa had come to her parental house for a few days to meet her parents and on 13.04.2022, she was kidnapped by complainant – Saraj Deen s/o Roshan Deen and other persons and taken to Delhi and thereafter, Summa was brought to Chandigarh on 18.04.2022 and she was forced to sign various papers, without conveying her the contents therein, after which, Mushtaq Ali, brother of the complainant, filed a false and frivolous petition seeking protection from this Court, being CRWP-3594-2022, wherein it was falsely stated that this is her first marriage. Said CRWP-3594-2022 was allowed by a co-ordinate Bench of this Court vide order dated 21.04.2022 (Annexure P-6). Learned counsel submits that after some days, Summa, somehow, managed to contact petitioner No.1 (brother of Summa), whereupon, on 07.05.2022, petitioner No.1 and mother of Summa reached the spot and managed to free Summa from the illegal custody of complainant and other persons. Thereafter, Summa filed a complaint dated 07.05.2022 (Annexure P-7) before the Station House Officer, Police Station Pathankot, with regard to the aforesaid incident, whereupon a police official of Police Station Kanwan, on 07.05.2022 itself, came to the residence of petitioner No.1 and recorded the statement of Summa. Learned counsel for the petitioners submits that Summa also filed a complaint dated 08.05.2022 (Annexure P-8) before the Senior Superintendent of Police, Pathankot, seeking protection at the hands of complainant and others, however, no action was taken on the same, whereupon Summa filed CRWP-4446-2022 before this Court, wherein notice of motion was issued by a co-ordinate Bench of this Court, vide order dated 12.05.2022 (Annexure P-9). It is stated that the present FIR (Annexure P-1) is a counter blast to the above-said complaint dated 08.05.2022 (Annexure P-8) as well as CRWP-4446-2022 on the allegation that the petitioners have kidnapped Mushtak Ali and Summa. It is stated that now the matter has been amicably settled between Mushtak Ali and Summa and pursuant thereto, CRM-M-53370-2022 has also been filed before this Court, wherein the parties have been directed to appear before the trial Court/Illaq Magistrate, in order to record their respective statements with regard to the said compromise, vide order dated 18.01.2023, passed by a co-ordinate Bench of this Court, and the said matter is now pending consideration for 27.04.2023. Copy thereof is supplied in Court today itself, which is taken on record, subject to all just exceptions. Learned counsel for the

petitioners further submits that the petitioners are ready and willing to join the investigation as and when required by Investigating Agency or as directed by this Court or trial Court.

List on 17.03.2023.

In the meanwhile, in the event of arrest of the petitioners, they shall be released on ad interim bail to the satisfaction of the Investigating/Arresting Officer. However, they shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.”

Learned counsel for the petitioners submits that pursuant to the aforesaid order, the petitioners have joined the investigation.

Learned State counsel on instructions from SI Dilbagh Singh has not disputed the aforesaid fact of joining of investigation by the petitioners and submits that their custodial interrogation is not required at this stage.

Heard learned counsel for the parties.

Since the petitioners have joined the investigation and their custodial interrogation is not required at this stage, the present petition is allowed and the ad-interim order dated 30.01.2023 passed by this Court is made absolute.

However, the petitioners shall continue to join the investigation as and when required to do so and abide by all the conditions laid down under Section 438(2) Cr.P.C.

It is made clear that if the petitioners fail to comply with any of the bail conditions laid down under Section 438(2) Cr.P.C, the State would be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioners.

Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded

above are only for consideration of the prayer for anticipatory bail at this stage.

The petition is accordingly disposed of.

17.03.2023
Himani

(HARSH BUNGER)
JUDGE

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