

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

212

CRM-M-5932-2023

Date of Decision: 03.03.2023

Navshok @ Abhay Sharma

...Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Surinder Thakur, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab
(assisted by ASI Jasbir Singh)

JAGMOHAN BANSAL, J. (ORAL)

Through instant petition under Section 438 of Code of Criminal Code, 1973, the petitioner is seeking anticipatory bail in FIR No. 33 dated 18.3.2022, under Sections 363, 366-A and 120-B IPC, registered at Police Station Sadar Hoshiarpur, District Hoshiarpur.

The case of prosecution, as per FIR, is that Harmesh Singh son of Malkit Singh lodged a complaint alleging that he has three daughters. Ramandeep Kaur is youngest one. Abhay Sharma @ Abhishek Sharma @ Navshok Sharma son of Ashwani Kumar Sharma used to stop his daughter while she was going to school. On 4.8.2021, he had taken away his daughter Ramandeep Kaur and in this regard FIR No. 130 dated 5.8.2021 under Sections 366 and 363-A of IPC was registered against Abhay Sharma @ Abhishek Sharma @ Navshok Sharma and family members.

In FIR No. 130 dated 5.8.2021, parents of the present petitioner were arrested and prosecutrix was recovered. Regular bail of Ashwani Kumar Sharma, father of the petitioner came up for consideration before this Court (CRM-M- 50302 of 2022) and this Court vide order dated 4.11.2022 ordered to release Ashwani Kumar Sharma on bail. The victim, during pendency of the above said petition, appeared before the court and made a statement. This Court has recorded this fact in the order dated 4.11.2022 which is reproduced hereinbelow:-

“Victim who is present in person in the Court has submitted before this Court that she left home voluntarily with Abhay Sharma @ Abhishek Sharma @ Navshok Sharma and sought protection from this Court by way of filing CRWP-7742-2021 which was granted by this Court vide order dated 16.09.2021. She has submitted that though she was sent to Nariniketan being minor, however, on attaining the age of 18 years on 31st August, 2022 she performed marriage with Abhay Sharma @ Abhishek Sharma @ Navshok Sharma on 13.09.2022. She has submitted that the present FIR was lodged by her father maliciously as they opposed her relationship with Abhay Sharma @ Abhishek Sharma @ Navshok Sharma. She further submits that though in her first statement under Section 164 Cr.P.C. she deposed before the learned Judicial Magistrate that she left home voluntarily with Abhay Sharma @ Abhishek Sharma @ Navshok Sharma as her parents wanted to perform her marriage with a widower. When her custody was given to her parents, they pressurized her to depose against the petitioner and the co-accused and hence, under their pressure, she deposed against them in her second statement

under Section 164 Cr.P.C. on 24.09.2021. She submits that now she has been examined by the trial Court as PW-1 and she has not supported the case of the prosecution and thus has been declared hostile by the trial Court. She submits that Abhay Sharma @ Abhishek Sharma @ Navshok Sharma is her husband and the petitioner before this Court is her father-in-law and he be granted bail.

The prosecutrix had confirmed her marriage with the petitioner. The statement of the prosecutrix was recorded before the Trial Court and she did not support case of the prosecution. The prosecutrix has been declared hostile. The date of birth of the prosecutrix as per record is 31.08.2004.

The petitioner vide order dated 06.02.2023 was directed to join investigation.

Reply by way of affidavit dated 03.03.2023 filed by Palwinder Singh, P.P.S., Deputy Superintendent of Police, Sub-Division City, District Hoshiarpur, filed by respondent-State is taken on record. Registry is directed to tag at appropriate place.

Learned State counsel, on instructions from ASI Jasbir Singh, submits that petitioner has already joined investigation and no custodial interrogation is required.

In view of the above, the petition is allowed and the interim bail granted to the petitioner vide order dated 06.02.2023 is made

absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

03.03.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>