

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

222

CRM-M-6154-2023

Date of Decision: 17.02.2023

Gursewak Singh

...Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Gagan Bajaj, Advocate for  
Mr. S.K. Choudhary, Advocate for the petitioner

Mr. Digvijay Nagpal, AAG, Punjab  
(assisted by ASI Ram Pal)

Mr. G.S. Bhinder, Advocate for Respondent No.2

**JAGMOHAN BANSAL, J. (ORAL)**

On 06.02.2023, the following order was passed:-

*“Through instant petition under Section 438 of Code of Criminal Code, 1973, the petitioner is seeking anticipatory bail in FIR No. 169 dated 15.9.2021, under Sections 363 and 366 IPC, registered at Police Station Shahpurkandi District Pathankot.*

*The case of prosecution is that Shubh Devi wife of Tarsem Lal lodged a complaint with police alleging that her daughter Diksha who is 17 years old, on 1.9.2021 had gone to buy goods from market but she did not return. She had been kidnapped on the pretext of marriage.*

*Learned counsel for the petitioner inter alia contends that the petitioner has performed marriage with prosecutrix and that at the time of marriage she was not minor. The prosecutrix had suffered a statement before Sessions Judge, Fatehgarh Sahib disclosing that she is 19 years old, performed marriage with the petitioner and happily staying with the petitioner. The petitioner is ready to join investigation and face proceedings. There is no*

*possibility of flee from justice. The arrest would cause irreparable loss, mental agony, embarrassment and humiliation to petitioner as well entire family.*

*Notice of motion.*

*On the asking of Court, Mr. Amish Sharma, AAG, Punjab, who is present in court on advance notice, accepts notice on behalf of State-respondent. He, on instructions from ASI Rampal, states that prosecutrix has performed marriage with the petitioner and is happily staying with the petitioner.*

*Mr. Amrit Paul Nahar, Advocate for Mr.G.S.Bhinder, Advocate, filed vakalatnama on behalf of the complainant-respondent No. 2. The same is taken on record. Registry is directed to tag the same at an appropriate place.*

*Meantime, keeping in mind law enunciated by Hon'ble Supreme Court in Thana Singh v. Central Bureau of Narcotics, (2013) 2 SCC 590, Arnab Manoranjan Goswami V. State of Maharashtra, (2021) 2 SCC 427, Satender Kumar Antil V. CBI (2022)10 SCC 51, Siddharam Satlingappa Mhetre V. State of Maharashtra & Ors., 2010 SCC OnLine SC 1375, Shri Gurbaksh Singh Sibbia V. State of Punjab (1980) 2 Supreme Court Cases 565, Arnesh Kumar V. State of Bihar (2014) 8 SCC 273, at the first instance, the petitioner is directed to appear before investigation officer on 09.02.2023 and thereafter as directed by IO. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bonds to the satisfaction of investigating/arresting officer. The petitioner shall co-operate the investigating officer.*

*If the arresting officer does not permit the petitioner to join the investigation, the petitioner would appear before the learned Illaqa Magistrate who would then summon the arresting officer and direct him to join the petitioner in investigation, in terms of the order of this Court.*

*Adjourned to 17.2.2023.*

*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.”*

Learned State counsel, on instructions from ASI Ram Pal, submits that the 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**

**17.02.2023**

*Mohit Kumar*

*Whether speaking/reasoned*      *Yes/No*

*Whether reportable*      *Yes/No*