

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

211

CRM-M-9107-2023

Date of Decision: 19.04.2023

Hardeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Tahaf Bains, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab
(assisted by HC Sahib Singh)

JAGMOHAN BANSAL, J. (ORAL)

1. On 21.02.2023, the following order was passed:-

“Through instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioner is seeking anticipatory bail in FIR No. 509 dated 05.12.2022, under Sections 363 and 366-A IPC, registered at Police Station Sohana District SAS Nagar (Mohali).

The case of prosecution is that Harpreet Singh lodged a complaint with police alleging that they are two brothers and one sister. His father has passed away. He and his sister are staying with their paternal aunt (Bua). His sister is studying in 10th class in government school. On 01.12.2022, she left home at 5.30 p.m. but she did not come back. Now they have come to know that Akash Mehra son of Jagdish Chand and his maternal uncle Hardeep Singh had allured her and taken away her.

Learned counsel for the petitioner inter alia contends that Akash Mehra and prosecutrix filed CRWP No. 11800 of 2022 before this Court seeking protection of their lives and liberty. This Court vide order dated 15.12.2022 disposed of said writ petition in terms of judgment dated 28.03.2022 passed by this Court in CRWP No. 2139 of 2022. The petitioner in terms of interim order dated 20.01.2023 passed by trial court has already joined investigation. The prosecutrix has eloped with Akash Mehra and they have filed representation dated 11.12.2022 before SSP, Rupnagar seeking protection of their lives and liberty.

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.

Learned State counsel, on instructions from HC Sahib Singh, inter alia contends that it is factually correct that the prosecutrix alongwith Akash Mehra made a representation to SSP, Rupnagar and they further filed criminal writ petition before this Court seeking protection of their lives and liberty. He also confirms that petitioner has joined investigation. However, he submits that the petitioner is not cooperating.

Having considered contents of the FIR, role attributed to the petitioner, gravity of offence, sentence prescribed for commission of alleged offence, arguments put forth by the petitioner and 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, this Court is of the prima facie opinion that petitioner deserves protection from arrest. Accordingly, at the first instance, the petitioner is directed to appear before investigating officer on 23.02.2023 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 17.03.2023.

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.”

2. Learned State counsel, on instructions from HC Sahib Singh, submits that petitioner has joined investigation and no custodial interrogation is required.

3. In view of the above facts and circumstances, the petition is allowed and the interim bail granted to the petitioner vide order dated 21.02.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

4. 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

19.04.2023
Mohit Kumar

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