

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

213

CRM-M-14081-2023

Date of Decision: 25.04.2023

Amar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

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

Mr. Vipin Pal Yadav, Addl. AG, Punjab

Mr. Anil Kumar Spehia, Advocate for the complainant

JAGMOHAN BANSAL, J. (ORAL)

1. Mr. Anil Kumar Spehia, Advocate appeared and filed his Memorandum of Appearance on behalf of the complainant. The same is taken on record and Registry is directed to tag at appropriate place.

2. On 20.03.2023, 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. 258 dated 4.10.2022, under Sections 366 and 366-A of IPC, registered at Police Station Model Town, District Hoshiarpur.

The case of prosecution is that complainant lodged a complaint with police alleging that she has two sons and four daughters and her daughter who is younger to eldest is the victim. She (victim) is aged about 17 years and 03 months. On 28.9.2022 at about 3.40 p.m., her mother-in-law namely Sarno wife of

Sheru resident of Sunder Nagar told her that victim had been taken away by Bharat son of Amar, Amar son of Sant Ram and Parkasho Devi wife of Sant Ram, residents of Jogian Kasba, Dhuri, District Sangrur after inducing and threatening the victim with a motive to perform marriage. She searched her house and her daughter was not found at home. Her daughter has been taken away by all of them after inducing and threatening her with an intention to perform marriage.

Learned counsel for the petitioner inter alia contends that in the FIR, the role attributed to petitioner is pari materia to role attributed to his mother and she has been granted concession of regular bail by Sessions Court. The son of the petitioner and daughter of the complainant on the earlier occasion eloped and they were recovered by Chandigarh Police. The father of the victim furnished an affidavit deposing that his daughter left with Bharat at her own accord who have been brought from Chandigarh by respectable members of the society and by family members of Bharat. He has taken custody of his daughter in the presence of panchayat who is physically and mentally fit. It shows that daughter of the complainant and son of the petitioner are in relation and there is no role of 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.

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, 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 27.03.2023 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 25.04.2023.

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.”

3. Learned State counsel submits that petitioner has joined investigation and no custodial interrogation is required.
4. In view of the above facts and circumstances, the petition is allowed and the interim bail granted to the petitioner vide order dated 20.03.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.
5. 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

25.04.2023
Mohit Kumar

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