

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

208

CRM-M-26931-2023

Date of decision: 30.11.2023

KAVIR KUMAR @ KABEER

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. J.S. Thind, Advocate for the petitioner.

Mr. Harpreet Singh, Addl. A.G., Punjab.

HARPREET KAUR JEEWAN, J. (ORAL)

1. Prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case bearing FIR No.0051 dated 25.03.2023 registered under Sections 363 and 366-A IPC at Police Station Kotwali, District Bathinda.

2. Learned counsel for the petitioner submits that the petitioner has nothing to do with the commission of offence regarding which the present FIR was lodged. Both the petitioner and complainant are resident of the same locality and the petitioner has been falsely implicated in the present case. As per the order dated 26.05.2023, notice of motion was issued by the Coordinate Bench and the petitioner was directed to appear before the Investigating Officer on 01.06.2023 and in that event the petitioner was ordered to be released on interim bail. The petitioner has joined the investigation in terms of the order dated 11.08.2023, as such, request was made for confirming the order of interim bail.

3. On the other hand, learned State counsel has opposed the bail petition and submits that the prosecutrix is a minor girl. She is still missing from her home and though the petitioner has joined the investigation, but he is not cooperating as he did not disclose about the whereabouts of the prosecutrix, despite the fact that the petitioner and prosecutrix had exchanged many calls *inter se* each other during the period from 01.01.2023 to 22.03.2023. Even on the day of incident, 164 calls were exchanged between the petitioner and the prosecutrix.

4. I have considered the aforesaid submissions. The present case was registered on the statement made by Om Parkash-complainant alleging that his daughter/prosecutrix went to school on 22.03.2023 and she is student of Class 10+1, but thereafter she did not return back home. Upon enquiry, he came to know that her daughter was enticed away by the petitioner-Kabeer on the pretext of marriage. The petitioner is resident of the same street i.e. street No.6, Janta Nagar Canal Colony, Bathinda where the prosecution was residing.

5. As per the status report filed by way of an affidavit of Kuldeep Singh, PPS, Deputy Superintendent of Police, Sub-Division City-I, Bathinda, District Bathinda, the petitioner has joined the investigation, but the prosecutrix is yet to be recovered. Information regarding calls *inter se* prosecutrix and the petitioner was gathered by the Investigating Agency and as many as 4655 messages and calls have been exchanged between the petitioner and prosecutrix in about 22 days before the date of the occurrence. Apart from this, there are 164 calls exchanged between the petitioner and prosecutrix on the day of incident. As per the complainant, the date of birth of the prosecutrix is 04.03.2007 and she is a student of Class 10+1. The prosecutrix is minor and is missing from the lawful custody of her parents since 22.03.2023 i.e. for the last 9 months despite the petitioner being

in touch with the prosecutrix through phone. During the investigation, the petitioner has disclosed that he had gone to various places and ultimately left the prosecutrix in the house of Azad Kumar, New Delhi. Petitioner has neither disclosed the address of the person with whom he has left the minor prosecutrix nor did he get effected the recovery of the prosecutrix. As per the status report, the petitioner along with prosecutrix had first gone to Rewari, then to Fazilka and thereafter to Jaipur and lastly to New Delhi and these facts have been disclosed by him during the investigation. Relevant portion of the status report reads as under:-

“9.That it is correct that the petitioner had joined the investigation. But he is not cooperating with the police. He did not disclose the proper address where he left the prosecutrix. He tried to confuse the police by saying that first they went to Rewari after that they went of Fazilka. On 25.03.2023 both of them left for Jaipur, there they stayed for two months. When the petitioner came to join the investigation he left the prosecutrix in the house Azad Kumar at New Delhi.”

6. Keeping in view the fact that the prosecutrix is minor and she is missing from the lawful custody of her parents from the last 9 months, there is an indication that the prosecutrix has been enticed away, which can be *prima facie* gathered from various call details exchanged between the petitioner and minor victim before the date of her missing from the lawful custody of her parents. As such, this Court is of the considered opinion that it is not a fit case where concession of anticipatory bail should be granted to the petitioner. Accordingly, the present petition stands dismissed.

7. Order dated 26.05.2023 stands vacated.

8. Keeping in view the facts and circumstances of the case, the

Investigating Agency is directed to make sincere efforts to recover the prosecutrix and to restore her custody to her parents. Copy of this order be sent to the Child Welfare Committee, Bathinda and DLSA, Bathinda to ensure necessary compliance.

(HARPREET KAUR JEEWAN)
JUDGE

30.11.2023
P.Bhatt

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