

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28961-2023 (O&M)
Date of Decision: 09.11.2023

GITANSHU BEHAL AND ANOTHER
.....PETITIONERS

vs.

CHANDIGARH ADMINISTRATION
.....RESPONDENT

207-1 CRM-M-30288-2023 (O&M)

DANISH
.....PETITIONER

Vs.

UNION TERRITORY, CHANDIGARH
.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Arjun Shukla, Advocate,
for the petitioner (in CRM-M-28961-2023).

Ms. Rozi, Advocate,
for the petitioners (in CRM-M-30288-2023).

Ms. Vasundhra Dalal, Addl. P.P., U.T., Chandigarh.

HARPREET KAUR JEEWAN J. (ORAL)

[1] By these petitions, the petitioners seek the concession of 'pre-arrest bail' upon FIR No. 42 having been registered at Police Station Industrial Area Phase-1 Chandigarh on 27.04.2023, alleging therein the commission of offences punishable under the provisions of Sections

354/509 of the IPC and Section 8 of the Protection of Children from Sexual Offence Act, 2012.

[2] On 02.06.2021, the following order was passed (in CRM-M-28961-2023):-

“Gitanshu Behal and Kartik Behal have filed anticipatory bail application in FIR No. 42 dated 27.04.2023 under Section 354 and 509 of IPC and Section 8 of POCSO Act registered at Police Station Industrial: Area, Phase-1, Chandigarh. It is argued that all the allegations levelled by the complainant are false. They have not committed any offence. Infact, the complainant was residing in the rental accommodation which was suddenly vacated and the possession of that premises was taken over by them. In the meantime, it came to their notice that she was involved in FIR registered under NDPS Act. Copy of FIR No. 0187 dated 07.11.2022 under Section 21 of NDPS Act, Police Station Industrial Area, Chandigarh is Annexure P-6. After the release, the petitioners had requested her to make balance payment of rent. The extract of Whatsapp chat is Annexure P-7. In that Whatsapp chat, she had threatened the landlord and ultimately one complaint was filed to Chandigarh Police on 23.01.2023, disclosing this fact, which is Annexure P-8. Later on, the matter was inquired by the police and as per report Annexure P-10, it was informed that earlier also another FIR was got registered bearing No. 197 dated 23.11.2021 under Section 363, 376 of IPC and Section 4 of POCSO Act, Police Station Industrial Area, UT, Chandigarh against one juvenile. Even the allegations detailed in the present FIR is bundle of lies. On that day, they were not present in Chandigarh. They have placed on record some photographs, detail of their location, Annexure P-2 to P-4. They are falsely implicated in this case. The complainant has referred to another person

*namely Danish Gulati who has no concern with them.
However, they are ready to join the investigation.*

Notice of motion.

*On the asking of this Court, Mr. Vipul Jindal,
Addl. PP, UT, Chandigarh accepts notice on behalf of the
State. Learned State counsel requested accommodation to
file status report.*

*I have considered the aforesaid facts. The
learned State counsel is directed to file status report after
considering the documents which are placed on record
alongwith the bail petition.*

*Adjourned to 23.08.2023 for filing status
report.*

*In the meantime, the arrest of both the
petitioners is stayed till next date, subject to the joining of
investigation.”*

[3] On 12.06.2023, the following order was passed (in CRM-M-30288-2023):-

*“Prayer in this petition filed under Section 438
Cr.P.C is for grant of anticipatory bail to the petitioner in
case FIR No.42 dated 27.04.2023 registered under Sections
354 and 509 IPC and Section 8 of POCSO Act, 2012 at
Police Station Industrial Area, Phase 1, District
Chandigarh.*

*FIR was lodged on the complaint of one
Amarjeet Kaur against the petitioner and two others.*

*After hearing learned counsel for the
petitioner, it appears to be a landlord and tenant dispute. It
had been alleged by the complainant that petitioner and co-
accused had bad touched the daughter of the complainant
aged 14 years.*

Notice of motion.

*Mr. Vivek Singla, Addl. PP, UT, Chandigarh for Mr. Vipul
Jindal, Addl. PP, UT, Chandigarh, accepts notice on behalf*

of the respondent- State. Mr. M.S. Virk, Advocate appears for the complainant and filed his vakalatnama.

On asking of this Court, learned State counsel has shown the statement made by the daughter of the complainant under Section 164 C.P.C, perusal of which revealed that allegation of bad touch is only against co-accused Kartik Behal. The only attribution to the petitioner is that he had abused the girl and her family members.

Adjourned to 23.08.2023.

In the meantime, in case of his arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/ Investigating Officer. However, it is further directed that the petitioner shall join the investigation as and when so required by the Investigating Officer. He shall not contact any person associated with the case to dissuade him from the investigation in any manner whatsoever and nor shall leave the country without prior permission of the Court. He shall further comply with the conditions stipulated in Section 438(2) Cr.P.C.”

[4] Learned State counsel, on instructions from the police official who is present in Court today to assist her submits that the petitioners have joined investigation, pursuant to the order dated 02.06.2023 passed in CRM-M-28961-2023 and dated 12.06.2023 passed in CRM-M-30288 of 2023 and presently their custodial interrogation is not required.

[5] Keeping in view the statement made by learned State counsel and the reasons recorded in the interim orders dated 02.06.2021 and 12.06.2023, these petitions are allowed and the aforesaid orders dated 02.06.2023 passed in CRM-M-28961-2023 and dated 12.06.2023 passed in CRM-M-30288 of 2023, are made absolute subject to the conditions laid

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down therein.

[6] A photocopy of this order be placed on the file of the other connected case.

November 09, 2023
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes/No
Whether reportable	Yes/No