

2023:PHHC:122671

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

CRM-M-36243-2021 (O&M)

Date of Decision: 19.09.2023

**VISHAL @ MALKEET SINGH
VS.**

... PETITIONER

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr.Malkit S. Hundal, Advocate for
Mr. G.S.Bajwa, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, DAG, Punjab.

Mr. Prikshit Thakur, Advocate for
Mr. Rahul Bhargava, Advocate
for the complainant.

VIVEK PURI, J.(ORAL)

1. On 30.08.2022, the following order was passed:-

“Petitioner is seeking anticipatory bail in the case bearing FIR No.190 dated 30.07.2021 under Sections 363/366 IPC (Section 376 of IPC and Section 6 of POCSO Act added later on), registered at Police Station B-Division, Amritsar City.

Learned counsel for the petitioner contends that the FIR has been registered on the basis of the statement of the father of the victim alleging that she went missing from the house on 29.07.2021. It has been further stated that the petitioner was in relationship with the victim whose date of birth as per her own version is 18.05.2003. The petitioner and the victim have solemnized marriage on 26.07.2021 and Annexure P-2 is the certificate in this regard. It has been further stated that the victim was recovered on 12.11.2021 and in her statement under Section 164 Cr.P.C, she has not levelled any allegation of threat, pressure or allurement exercised upon her by the petitioner. It has also been stated by her that she had voluntarily solemnized marriage with the petitioner without any pressure. It is further submitted that the petitioner and victim had also moved an application for protection of their lives and liberty before the Court of Sessions, Amritsar wherein also the victim has specified her age to be 18 years and 02 months. Presently, the victim is residing in her parental house.

Learned State counsel and counsel for the complainant have opposed the application on the score that the date of birth of the victim as per school record is 18.05.2004 and the marriage has been allegedly solemnized in a Gurudwara which is not registered one.

The controversy as to whether the victim was aged more than 18 years or not at the time when she had allegedly solemnized marriage with the petitioner will be debatable and moot point.

Adjourned to 02.11.2022.

Meanwhile, it is directed that the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.”

2. Learned counsel for the petitioner contends that in pursuance of interim directions issued by this Court, the petitioner has joined the investigation, on conclusion of investigation, challan has been presented and the case in the trial Court is fixed for prosecution evidence.

3. Learned State counsel, on instructions from ASI Satpal Singh, has not disputed the aforesaid factual aspects and further submits that custodial interrogation of the petitioner is not required.

4. Keeping in view the entire circumstances, sufficient grounds are made out to extend the concession of pre-arrest bail to the petitioner. Accordingly, order dated 30.08.2022, vide which the petitioner has been granted interim bail, is made absolute.

5. Petition is allowed.

19.09.2023
smriti

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No