

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**213****CRM-M No.41603 of 2023****Date of Decision : 22.11.2023**

Jobandeep Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Malkiat Singh, Advocate for the petitioner.

Mr. M.S. Tiwana, AAG Punjab.

Mr. Sumeet Puri, Advocate for the complainant.

ALKA SARIN, J. (Oral)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No. 244 dated 14.10.2022 under Sections 376 and 506 of the Indian Penal Code, 1860; Section 4 of the Protection of Children from Sexual Offences Act, 2012 and Sections 9 and 10 of the Prohibition of Child Marriage Act, 2006 registered at Police Station Dharamkot, District Moga.

2. On 05.09.2023 the following order was passed :

“This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.244 dated 14.10.2022 under Sections 376/506 of the Indian Penal Code, 1860 (IPC), Section 4 of the Protection of Children from Sexual Offences Act, 2012 (POCSO) and Section 9/10 of

Prohibition of Child Marriage Act, 2006 registered at Police Station Dharamkot, Moga.

Learned counsel for the petitioner would contend that Sections 376, 506 IPC and Section 4 of the POCSO will not be applicable to the petitioner and the only Section which will be attracted qua the petitioner is Section 9/10 of the Prohibition of Child Marriage Act, 2006 for which the maximum punishment is two years. Counsel has further contended that similarly situated co-accused Sukhmani alias Sulakhani has already been granted anticipatory bail in CRM-M-60394-2022 by this Court on 23.12.2022 and she has joined investigation in the said case on 04.08.2023. Counsel has further contended that the allegations in the FIR on the face of it appear to be false in view of the photographs appended with the petition as Annexure P/2 which shows the victim in happy disposition of mind. It is further the contention that the victim was never deserted by the boy who she got married to rather she left his company on her own.

Notice of motion.

Mr. Adhiraj Singh Thind, AAG accepts notice on behalf of respondent-State of Punjab while Mr. Sumit Puri, Advocate accepts notice on behalf of the complainant.

Learned counsel for the complainant has stated

that the petitioner was instrumental in taking the daughter away and getting her forcibly married to one Robin Deep Singh, though she was only 17 years of age at the time of the incident. It is further the contention that Robin Deep Singh tried to forcibly make physical relations with the victim.

Learned State counsel on instructions from ASI Jaswinder Singh is not in position to deny the fact that Sections 376, 506 IPC and Section 4 of the POCSO Act would not be applicable to the petitioner in the present case. Learned counsel has further pointed out that as per the instructions received from ASI Jaswinder Singh, the victim had left the company on her own and was not deserted by Robin Deep Singh.

List on 13.10.2023.

Meanwhile, the petitioner is directed to join investigation as and when called for. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing personal bonds with adequate surety to the satisfaction of the Arresting Officer. The petitioner shall also abide by all the terms and conditions as specified in Section 438(2) of the Code of Criminal Procedure, 1973.

To be heard along with CRM-M-60394-2022.

Status report be also filed on or before the next date of hearing.”

3. Learned counsel for the petitioner states that the petitioner has since joined investigation and fully cooperated.

4. Learned counsel for the State on instructions from ASI Jasbir Singh has stated that the petitioner has since joined investigation and fully cooperated and that he is no longer required for further custodial interrogation as of now.

5. In view of the above, the order dated 05.09.2023 is made absolute. The petitioner shall, however, join investigation as and when called. The petitioner shall also abide by all the terms and conditions as specified under Section 438(2) of the Code of Criminal Procedure, 1973.

6. Disposed off accordingly. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

22.11.2023
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO