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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-44827-2023 (O&M)
Date of decision : 15.12.2023

Jatinder Singh @ Kaka

... Petitioner(s)

Versus

State of Punjab & Anr.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vikas Gupta, Advocate for the petitioner.

Mr. M.S. Tiwana, AAG Punjab for respondent No.1.

Mr. Shubham Mehta, Advocate for
Mr. Vikas Deep Singh Nada, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

1. 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.26 dated 24.02.2022 (Annexure P-1) registered under Sections 363, 366 and 366-A of the Indian Penal Code, 1860 at Police Station Sirhali, District Tarn Taran.

2. On 11.09.2023 the following order was passed :

“Prayer in this first petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.26 dated 24.02.2022 (Annexure P-1) registered under Sections 363, 366 and 366-A IPC at Police Station Sirhali, District Tarn Taran.

Learned counsel for the petitioner, inter alia, contends that the petitioner has been falsely implicated in the present case. Complainant in the present case is mother of respondent No.2/prosecutrix. It is submitted that there is love affair between the petitioner and respondent No.2/prosecutrix and they both left their houses and performed marriage on 24.02.2022, as is evident from marriage certificate dated 24.02.2022 (Annexure P-2). Respondent No.2/ prosecutrix was major at that time. The petitioner and respondent No.2/prosecutrix, have also approached this Court by way of filing a petition bearing CRWP-1812-2022, seeking protection to their life and liberty which was dismissed as withdrawn vide order dated 03.03.2022. It is further submitted that the allegations levelled in the FIR are false and vague. Nothing has to be recovered from the petitioner, therefore, his custodial interrogation is not required. The petitioner is ready to join the investigation as and when required and shall abide by all the terms and conditions imposed upon him.

Notice of motion.

On the asking of Court, Mr. Kunwarbir Singh, AAG, Punjab, accepts notice on behalf of respondent No. 1-State; whereas Mr. J.S. Johal, Advocate, who is present in Court accepts notice on behalf of respondent No.2-prosecutrix and submits his Vakalatnama, which is taken on record.

Learned counsel appearing for respondent No.2-prosecutrix does not dispute the aforesaid submissions of learned counsel for the petitioner.

Adjourned to 15.12.2023.

In the meantime, the petitioner is directed to appear before the SHO/Investigating Officer to join investigation and in the event of his arrest, he shall be released on interim bail on his furnishing bail bonds to the satisfaction of SHO/Investigating Agency, subject to the following conditions as envisaged under Section 438(2) Cr.P.C.:-

- i) that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required;*
- ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;*
- iii) that the petitioner shall not leave the country, without prior permission of the Court and shall surrender his passport, if any.*

Meanwhile, State counsel is directed to file an affidavit/status report as to the exact role of the petitioner along with the details of pending FIRs, if any, on or before the next date of hearing.”

3. Learned counsel for the petitioner would contend that pursuant to the said order the petitioner has joined investigation and has fully cooperated.

4. Learned counsel for the State on instructions from ASI Gurdial Singh has stated that the petitioner has since joined investigation and has 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 11.09.2023 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.

15.12.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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