

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

201

Criminal Misc. No. M-58320 of 2022

Date of decision :-25.07.2023

Balwinder Kaur Sarpanch

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Prateek Sodhi, Advocate
for the petitioner.

Ms. Kanica Sachdeva, AAG, Punjab.

NIDHI GUPTA J. (Oral)

The petitioner is seeking anticipatory bail in FIR No.248 dated 26.12.2020, under Sections 376, 363, 366 and 120-B IPC and Section 4 of POCSO Act (later on Section 201 IPC vide rapat No.8 dated 22.2.2021; Sections 366-A and 370 IPC added vide rapat No.19 dated 25.2.2021; and Sections 9, 10 and 11 of Prohibition of Child Marriage Act, 2006 vide rapat No.15 dated 12.3.2021 were added), registered at Police Station Khalchian, District Amritsar Rural.

On 14.12.2022, this Court had passed the following order

:-

“Instant petition has been filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case FIR No. 248 dated 26.12.2020 under sections 376, 363, 366, 120-B I.P.C and section 4 of POCSO Act (later on added section 201 IPC vide Rapat No.8

dated 22.2.2021, sections 366-A, 370 IPC vide Rapat No. 19 dated 25.2.2021 and sections 9, 10, 11 of Prohibition of Child Marriage Act vide Rapat No. 15 dated 12.3.2021), registered at Police Station, Khalchian, District Amritsar (Rural).

Learned counsel for the petitioner has contended that the petitioner is the Sarpanch of village and she has been falsely implicated in the present case. It is submitted that the victim allegedly eloped with the co-accused on 25.12.2020 and thereafter on 27.12.2020 her statement under section 164 Cr.P.C was recorded. Counsel submits that neither in the FIR nor in the statement of the victim recorded under section 164 Cr.P.C. petitioner was named, however, for the first time she was named by the co-accused on 12.3.2021. Counsel submits that the only allegation levelled against the petitioner is that being Sarpanch she identified the victim at the time of her marriage. Counsel submits that statement of the co-accused itself is not admissible. It is submitted that from the allegations made in the FIR the offence under section 376 IC and POCSO Act would not be attracted. It is further submitted that petitioner has no criminal antecedents as she has never been involved in any criminal offence, however, she is ready and willing to join the investigation.

Notice of motion.

On the asking of the court, Mr. Karunesh Kaushal, AAG, Punjab accepts notice on behalf of the respondent-State.

List on 31.3.2023.

In the meanwhile, in the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation before the Investigating Agency/Officer. She shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:-

- (1) That the petitioner shall make herself available for interrogation by a police officer as and when required to do so.*
- (2) 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 from disclosing such facts to the court or to any police officer.*
- (3) That the petitioner shall not leave India without prior permission of the court.”*

Learned State counsel, on instructions from ASI Sarwan Singh states that in terms of the order passed by this Court, reproduced above, the petitioner has joined the investigation and no further interrogation is required at this stage.

In view of the above, the order dated 14.12.2022 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join the investigation and cooperate with the investigating agency in case he is required for the same in future as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the investigating agency that the petitioner is required for the

investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

July 25, 2023
Vijay Asija

(NIDHI GUPTA)
JUDGE

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