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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-2741-2024 (O&M)
Date of decision: 16.07.2024

Harjinder Singh @ Monti

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Ekta Chauhan, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Rahul Sharma, Advocate
for respondent No.2-complainant.

HARPREET SINGH BRAR, J. (ORAL)

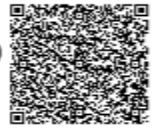
1. This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in case bearing FIR No.232 dated 19.12.2023 under Sections 376, 343, 323, 363, 506 of the Indian Penal Code, 1860, registered at Police Station Khanna City 2, District Ludhiana.

2. On 27.02.2024, the following order was passed:-

“Status report has been filed.

*Vakalatnama on behalf of complainant has also been
filed.*

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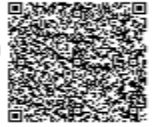


Learned State counsel requests for short adjournment for placing on record the copies of statement of the prosecutrix and complainant No.2 as recorded under Section 164 Cr.P.C.

Through the instant petition, prayer is made for grant of pre-arrest bail to the petitioner in case FIR No. 232 dated 19.12.2023 under Sections 376, 343, 323, 363, 506 IPC registered at Police Station Khanna City 2, District Ludhiana on the basis of written filed by respondent no.2-complainant on 19.12.2023 alleging therein that the present petitioner was living in her neighbourhood and was known to her. On 30.11.2023, he forcibly took her to a temple with the help of one girl namely Harshdeep Kaur wherein she was made to get married with the petitioner and otherwise threatened to be killed. The petitioner had also extended threats to her parents if she disclosed about this fact to anybody. Thereafter she had come back to her house on 11.12.2023. The petitioner met her when she had gone to the market to purchase something. She was forcibly made to board in his car. He snatched her mobile phone and she was taken to a photographer shop wherein she was forced to get some photograph with the petitioner. Thereafter she was taken by him to Ghaziabad and was confined by him till 13.11.2023. Somehow she managed to leave the place and come back from Ghaziabad in the morning on 13.11.2023 and had reached Amritsar. She alleged that the petitioner had forcibly committed rape during the intervening period. The petitioner had been ravishing her. After registration of the FIR, investigation proceedings have been initiated and are going on.

It is argued by counsel for the petitioner that in fact the

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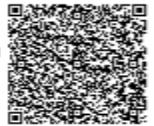
petitioner and respondent no.2 were having love affair. They performed marriage on 13.11.2023 in Mansa Devi Temple, Panchkula with the consent of each other and at her free will victim had solemnized marriage with him. Thereafter, they had gone to Ghaziabad and stayed till 13.12.2023. Then they had gone to Amritsar also. It was not a case of rape and no force whatsoever had been applied upon respondent no.2 by the petitioner. It is also submitted that it is only some time, when respondent no.2 went back to her parental house, she has lodged FIR against him on false frivolous allegations. The petitioner is ready to join investigation and thus, his custodial interrogation is not required.

Status report has been filed by respondent-State wherein it is submitted that the investigation is going on and custodial interrogation of the petitioner is required for the purpose of recovery of obscene photographs and videos of the victim.

At this stage, vakalatnama has also been filed on behalf of complainant. Learned counsel for the complainant supports the version of kidnapping/abduction of the victim by the petitioner, her illegal confinement and then subjecting her to repeated rape by the present petitioner and submits that he does not deserve to be given concession of bail.

Keeping in view of this fact that respondent no.2 is major and had stayed with the petitioner for a period of more than 30 days after performing marriage between them although it is alleged that the same allegation was forcibly performed, victim has not raised alarm during that period and further, on perusal of the Whats-app chat record qua the conversation having taken place between them, it appears to

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be a prima-facie case of consensual relationship.

Adjourned to 11.03.2024.

In the meantime, the petitioner is directed to appear before the Investigating/Arresting Officer to join investigation within one week or as and when subsequently required thereafter. In the event of his arrest, the Investigating/Arresting Officer shall release the petitioner on interim bail on furnishing personal/surety bonds to his/her satisfaction. The petitioner shall also abide by the conditions as envisaged under Section 438(2) Cr.P.C.”

3 Learned State counsel, on instructions from ASI Parmod Kumar, at the very outset, informs the Court that the petitioner has joined the investigation and his custodial interrogation is not required.

4. In view of the statement of learned State counsel, order dated 27.02.2024 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 438(2) Cr.P.C.

5. The petition stands disposed of.

[HARPREET SINGH BRAR]
JUDGE

16.07.2024
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No