

Neutral Citation No. 2024:PHHC:064387

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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-7467-2024 (O&M)
Date of decision: 08.05.2024

Prerna ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rahul Dev Singh, Advocate
for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

MANISHA BATRA, J. (Oral)

- Through the instant petition, filed under Section 438 of Code of Criminal Procedure, 1973, the petitioner seeks anticipatory bail in case FIR No. 140, dated 09.12.2023, under Sections 363, 366, 376 of IPC and Section 6 of the POCSO Act, 2012 (Section 11 of the Prohibition of Child Marriage Act, 2006 added later on) at Police Station Sujanpur, District Pathankot.
- Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of the statement recorded by the complainant 'P' (*name withheld*) alleging therein that the victim 'K' (*name withheld*), who was her 16 ½ years' old daughter, had gone missing from their house in the intervening night of 30.11.2023/01.12.2023. She suspected that she was enticed away by 'A' (*name withheld*), son of Jeeta resident of Belia, District Gurdaspur, on the

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pretext of performing marriage with her. Initially a case under Section 360 and 366 of IPC was registered. Investigation proceedings were initiated. A' was found to be a juvenile. The victim was subsequently recovered. Her medical examination was conducted and offences under Section 6 of the POCSO Act as well as Section 11 of the Prohibition of Child Marriage Act, 2006 were added. The petitioner was nominated in this case on the ground that she, being Bua of the victim, was responsible for performing their child marriage and had facilitated the kidnapping of the victim. The investigation is under way. The petitioner had moved an application for seeking pre-arrest bail before the Court of learned Additional Sessions Judge, Pathankot but the same had been dismissed, vide order dated 10.01.2024.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by her counsel that he has been falsely implicated in this case. In fact, the juvenile 'A' is son of maternal aunt and uncle of her husband (Massi and Massad). She had no role to play in taking away of the victim or in her marriage and it was only on asking of maternal aunt and uncle of her husband that she had gone to their house, wherein the marriage ceremony of the victim with the juvenile was in progress and her photographs were also clicked. She was implicated in this case only on the basis of her photographs. She had no hand in the marriage of the victim, who is also the daughter of real maternal uncle of her husband. Just two months before the commission of subject offences, she had delivered a female child on 10.09.2023. The juvenile as well as aunt (*Massi*), namely Mamta, have since been extended benefit of regular bail. Her custodial interrogation is not required. She has already joined the investigation. No useful purpose would

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be served by keeping her him in custody anymore. It is, therefore, argued that the present petition deserves to be allowed.

4. On the other hand, learned State counsel has submitted that the petitioner has joined investigation on 05.04.2024. Her custodial interrogation is not required. However, it is urged that since there are serious allegations against the petitioner, therefore, she does not deserve to be given concession of pre-arrest bail.

5. I have heard learned counsel for the parties at considerable and have also gone through the record carefully.

6. The victim is the daughter of real maternal uncle of the husband of the petitioner, whereas the juvenile ‘A’, who allegedly kidnapped the victim, performed marriage with her and allegedly committed offence of aggravated penetrative sexual assault upon her, is real son of maternal aunt and uncle (*Massi and Massad*) of the petitioner. The petitioner has already joined investigation. There is nothing on record to show that she had any hand in the kidnapping of the victim or it was her, who had facilitated the commission of offences punishable under Section 6 of the POCSO Act or under Section 376 of IPC as against the victim. Keeping all these circumstances into consideration, in my considered opinion, it is a fit case for grant of pre-arrest bail to the petitioner. Accordingly, the present petition is allowed. The petitioner is granted concession of pre-arrest bail, subject to the conditions as envisaged under Section 438(2) of Cr.P.C.

08.05.2024

Waseem Ansari

Whether speaking/reasoned
Whether reportable

(MANISHA BATRA)
JUDGE

Yes/No
Yes/No