

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107

CRM-M No.9693 of 2024
Date of decision: 26.02.2024

JUDGE SINGH

.... Petitioner

Versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Lovepreet Handa, Advocate for the petitioner.

Ms. Ruchika Sabharwal, Sr. D.A.G., Punjab.

MANISHA BATRA, J. (oral)

1. The present petition has been filed by the petitioner under Section 438 of Cr.P.C for grant of anticipatory bail in case arising out of FIR No.12 dated 20.01.2024 registered under Sections 363, 366-A and 120-B of IPC at Police Station Kot Ise Khan, District Moga on the basis of statement recorded by the complainant-'S' (name withheld) alleging therein that in the morning of 13.01.2024, his daughter-'K' (name withheld) who is aged about 17 years, had suddenly gone missing from the house. They made search for her but could not get any information. Now he came to know that she had been taken away by the present petitioner in connivance with Gurpal Singh @ Ajay. It was also informed by him that the petitioner was already convicted in a case bearing FIR No.140 dated 20.08.2021 and was on parole at that time.
2. The present petition has been filed by the petitioner on the ground and it is argued by learned counsel for the petitioner that the petitioner has been falsely implicated in this case. In fact, the daughter of the complainant

and the petitioner were in love with each other. They have decided to live together. The complainant and his family members were, however, against their alliance and had refused to accept the same and ultimately, the daughter of the complainant has left her house out of her own sweet will and without pressure. They, had even filed a petition seeking protection of their life and liberty before a co-ordinate Bench of this Court. It is also submitted that the daughter of the complainant is now in the protection home at Ferozepur. The petitioner is ready to join the investigation and his custodial interrogation is not required in this case.

3. Learned State counsel who appeared on advance notice of the petition, has argued that the petitioner has already been sentenced to undergo rigorous imprisonment for a period of 20 years for commission of offences punishable under Sections 376, 506 read with Section 34 of IPC and Section 4 of POCSO Act in case bearing FIR No.140 dated 20.08.2021. It is submitted that the petitioner had kidnapped the daughter of the complainant who is still a minor, while he was on parole. It is argued by her that the offence as allegedly committed by the petitioner is quite serious in nature and therefore, thorough investigation in the matter is required and as such, he does not deserve to be given concession of grant of anticipatory bail.

4. Heard learned counsel for the parties.

5. The petitioner is alleged to have abducted/enticed away the minor daughter of the complainant. It has come on record that qua the allegation of committing rape upon the daughter of the complainant, he is already undergoing rigorous imprisonment for a period of 20 years. As soon as, he was released on parole, he again took the victim out of the custody of her lawful guardianship. The allegations against the petitioner are quite serious in nature,

therefore, I am of the considered opinion that he is not entitled to concession of anticipatory bail. The well settled proposition of law is that anticipatory bail should not be granted likely and in a routine manner. The grant or refusal of such bail depends upon the variety of circumstances, the cumulative effect of which should enter the judicial verdict. Powers under this section are to be exercised sparingly and in extra ordinary circumstances. It should be seen that an order of anticipatory bail should not operate as inroad in the normal legal procedure of criminal cases by the trial Court. In the light of the reasons as disclosed above but without commenting further on merits, lest it may prejudice the case of either side during the course of trial of the main case, the petition is dismissed as such, in the obtaining circumstances of the case.

6. Needless to mention that nothing observed, hereinabove, would reflect, on the merits of the case, in any manner as the same has been recorded for the limited purpose of deciding the present petition for anticipatory bail.

26.02.2024
Jyoti-IV

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned:	Yes/No.
Whether reportable :	Yes/No