



218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19198-2024 (O&M)
Date of Decision: 07.08.2024

SUNNY AND ANOTHER
.....PETITIONERS

Vs.

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present:- Mr. A.P.S. Rehan, Advocate,
for the petitioners.

Ms. Sakshi Bakshi, A.A.G., Punjab.

HARPREET KAUR JEEWAN J. (ORAL)

1. The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioners in case FIR No. 53, dated, 15.07.2019, under Sections 363 and 366 of the IPC read with Section 120-B thereof (Section 376 IPC and Section 6 of the Protection of Children from Sexual Offences, Act, 2012, were added later on), registered at Police Station Qadian, Police District Batala, District Gurdaspur.
2. A short reply, dated 05.08.2024, by way of an affidavit of Sh. Rajesh Kakkar, PPS, Deputy Superintendent of Police, Sub-Division Sri Hargobindpur, Police District Batala, has been filed in Court today by learned State counsel. The same is taken on record.
3. Learned counsel for the petitioners *inter alia* contends that the FIR was registered due to some mis-understanding between the parties. However, with the intervention of the respectables, the matter has been



compromised, as per the compromise deed, dated 04.02.2022 (Annexure P-1). The bail application filed on behalf of the petitioners has been dismissed by the learned Additional Sessions Judge, Gurdaspur, without appreciating the facts on record. The co-accused Kiran @ Kajal has been granted the concession of anticipatory bail in the present case, as per the order dated 02.02.2024, passed in CRM-M-28044-2023 (Annexure P-3). The petitioners are also entitled to bail on parity.

4. Learned State counsel has opposed the present petition on the ground of gravity of allegations against the petitioner. It is contended that the petitioner is the main accused.

4.1 Learned State counsel has further informed that petitioners-Arun @ Bablu and Sunny have been declared proclaimed offenders by the learned Additional District Judge, Gurdaspur, vide order dated 29.05.2024 and 22.07.2024, respectively. The age of the prosecutrix is 17 years and 04 months, as per the FIR. The statement of the prosecutrix has been recorded under Section 164 Cr.P.C. and even her medical examination was conducted on 06.08.2019.

5. I have considered the aforesaid submissions and perused the paper-book.

6. The present case was registered at the instance of the mother of the victim who alleged that the age of her daughter-prosecutrix was 17 years and 04 months at the time of the alleged occurrence. On 05.07.2019, she got telephonically informed that her daughter has not come back home.

Thereafter, she came to know that her daughter was kidnapped by petitioner

No. 1 Sunny and Dharmender Kumar in connivance with petitioner No. 2



Arun @ Bablu and Kajal. It is not disputed that the age of the prosecutrix was less than 18 years at the time of alleged occurrence. As per the statement of the prosecutrix recorded under Section 164 Cr.P.C (Annexure R-1/T), there are allegations against petitioner No. 2 Arun @ Bablu that he had allured the prosecutrix to arrange her marriage with the petitioner No. 1 Sunny, as such the minor prosecutrix left her house and went along with the petitioner Arun.

7. It is further alleged by the victim that she was handed over to petitioner No. 1 Sunny. The victim was kept in a PG where petitioner No. 1 Sunny was residing and both the petitioners Sunny and Arun @ Bablu were visiting the said accommodation. There are allegations against petitioner No. 2 Arun @ Bablu that he has committed rape upon the prosecutrix and only after a period of one month, the prosecutrix was able to flee away from the said house and thereafter, she had reached to the house of her parents. There are specific allegations against both the petitioners and there are allegations against Arun @ Bablu (petitioner No. 2) that he had sexually abused the minor prosecutrix.

8. In such circumstances, the petitioners are not entitled to the benefit of pre-arrest bail. The facts and circumstances against the accused Kiran @ Kajal who has been granted the concession of anticipatory bail, vide order dated 02.02.2024 (Annexure P-3) are distinguishable as there are no allegations against her to kidnap or allure the prosecutrix.

9. In view of such circumstances, the petitioners are not entitled to the concession of anticipatory bail. Consequently, the present petition stands dismissed.



10. It is made clear that nothing observed hereinabove will be taken as an observation on the actual merits of the case, which would be taken up by the learned trial Court wholly on the basis of evidence led/gathered before it.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

August 07, 2024
janki/nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether reportable	No