



202 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-22137-2024 (O&M)

Date of Decision: 30.05.2024

VIVEK ALIAS VISHAL

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vipin Kumar Sharma, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

Mr. Bhrigu Dutt Sharma, Advocate
for the complainant.

HARPREET SINGH BRAR J. (Oral)

1. Through the instant petition, petitioner is seeking anticipatory bail in case FIR No.0054 dated 15.03.2024 under Sections 363 & 366-A of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Basti Bawa Khel, District Police Commissionerate Jalandhar.

2. On 03.05.2024, following order was passed:

"The instant petition is preferred under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), seeking anticipatory bail in FIR No.0054 dated 15.03.2024 under Sections 363 & 366-A of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Basti Bawa Khel, District Police Commissionerate Jalandhar.

Learned counsel for the petitioner, inter alia, contends that the petitioner is not named in the FIR (supra) and the prosecutrix has herself left her home, as her parents were forcing her to marry a person, to whom she refused to marry and her parents had beaten her up. On 13.03.2024, she herself called the petitioner and requested him to take her away, otherwise she would commit suicide. Mother of the petitioner traced the petitioner and the prosecutrix and



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brought them to Jalandhar. Statement of the prosecutrix under Section 164 Cr.P.C. was recorded, in which she has made no allegation against the petitioner and she refused to go to house of her parents. As such, learned Judicial Magistrate 1st Class, Jalandhar sent the prosecutrix to Gandhi Vanita Ashram, Jalandhar, run by Child Welfare Committee. It is further contended that there is nothing on record to indicate complicity of the petitioner.

Notice of motion for 30.05.2024.

Keeping in view the ratio of law enunciated by the Hon'ble Supreme Court in Arnesh Kumar Vs. State of Bihar, (2014) 8 SCC 273, Arnab Manoranjan Goswami Vs. State of Maharashtra, (2021) 2 SCC 427, Satender Kumar Antil Vs. CBI, (2022) 10 SCC 51, Siddharam Satlingappa Mhetre Vs. State of Maharashtra and ors., 2010 SCC OnLine SC 1375 and Shri Gurbaksh Singh Sibbia Vs. State of Punjab, (1980) 2 SCC 565, the petitioner is directed to appear before Investigating Officer within a period of two weeks from today and thereafter, as directed by the Investigating Officer. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing bail/surety bonds to the satisfaction of investigating/arresting officer and the petitioner shall co-operate in the investigation.

If the arresting officer does not permit the petitioner to join the investigation, the petitioner would appear before the learned Illaqa Magistrate, who would then summon the arresting officer and direct him to join the petitioner in the investigation, in terms of the order of this Court.

Nothing observed hereinabove shall be construed as an expression of opinion by this Court and the trial Court shall decide the same on its own merits, strictly in accordance with law."

3. Learned State counsel on instructions from ASI Tehal Das, submits that in compliance of order dated 03.05.2024 passed by this Court, the petitioner has joined the investigation and is not required for further custodial interrogation.

4. Learned counsel for the complainant vehemently opposes the prayer for grant of anticipatory bail to the petitioner on the ground that complainant along with prosecutrix has already approached this Court for getting her statement recorded, afresh under Section 164 of Cr.P.C. and for getting her medico legal examination conducted.
5. Keeping in view the statement made by learned State Counsel the order dated 03.05.2024, is made absolute. The petitioner shall abide by the terms and conditions enumerated in Section 438(2) of Cr.P.C.
6. The petition is accordingly allowed.

30.05.2024

Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No