

Sr. No.208

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-24091-2023
Date of decision: 21st March, 2024

RAHUL KUMAR**Petitioner**

versus

STATE OF PUNJAB**Respondent**

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Neeraj Madaan, Advocate
for the petitioner.

Ms. Himani Arora, A.A.G.,Punjab.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed under Section 438 Cr.P.C for grant of anticipatory bail to the petitioner in case FIR No.50 dated 25.03.2023, under Sections 363, 366-A, 120-B, IPC, 1860, registered at Police Station Sadar Fazilka, District Fazilka (Annexure P-1).

2. Learned counsel for the petitioner *inter alia* contends that the prosecutrix has attained majority on 01.01.2024 and the brother of the petitioner namely Shubham Ram has solemnized marriage with her. They have jointly filed a writ petition bearing No. CRWP-1657-2024 before this Court, whereby, order dated 22.02.2024 has been passed by the co-ordinate Bench of this Court and the representation moved by the brother of the petitioner and the prosecutrix through SSP, Fazilka, was ordered to be considered by the SSP, Fazilka. Copy of the said order is submitted in the Court, which is taken on record.

2.1 Learned counsel for the petitioner further contends that the petitioner was granted interim bail as per the order dated 12.05.2023 passed by the

Coordinate Bench of this Court. The relevant portion of the aforesaid said order reads as under:-

“xxx xxx xxx xxx

2. Briefly, as per allegations in the FIR lodged on the statement of victim's father, her daughter aged about 17 years was enticed away by accused Shivam with intention to solemnize marriage in connivance with the petitioner and another accused Sunny.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the case as there was no enticement to the victim, nor the petitioner in any way has connived in the whole affair as alleged by the complainant. The victim and the main accused Shivam were known to each other, and she willingly came to him feeling threatened by her parents, who wanted to marry her to some unknown person. She even filed Criminal Writ Petition No.3739 of 2023 titled Jyoti vs. State of Punjab and others before this Court seeking protection of her life and liberty apprehending threats at the hands of respondent Nos.4 to 7, her parents and relatives. Notice of motion has been issued on the criminal writ petition for 24.05.2023 (Annexure P-2), and respondent No.4 therein has also been ordered to be present before this Court on the date fixed. The protection petition was filed by her claiming that she had friendly relations with the main accused Shivam, aged about 20 years, for the last about three years. It was also contended that she was being pressurized and forced by her parents to marry some other person.

4. Notice of motion.

5. Mr. Shubham Kaushik, Assistant Advocate General, Punjab, accepts notice on behalf of the respondent-State.

6. Adjourned to 29.09.2023.

7. In the meanwhile, the petitioner shall join the investigation as and when called upon to do so by the Investigating Officer, and in the event of arrest he shall be released on interim bail to the satisfaction of Arresting Officer. The petitioner shall also abide by the conditions of Section 438(2) Cr.P.C.

xxx xxx xxx xxx”

- 2.2 Learned counsel for the petitioner submits that the petitioner has joined the investigation in compliance of the aforesaid order dated 12.05.2023, passed by the Coordinate Bench of this Court.
3. Learned counsel appearing on behalf of the respondent-State, on instructions from ASI Gurmail Singh, confirms that the petitioner has joined investigation and also contends that his further custodial interrogation is not required.
4. In view of the reasons recorded in the order dated –and keeping in view the fact that the petitioner has joined investigation, his further custodial interrogation is not required by the Investigating Agency, the present petition is allowed and the order dated 12.05.2023, passed by the Coordinate Bench of this Court, granting interim bail to the petitioner is made absolute, subject to the conditions laid down under Section 438(2) Cr.P.C.
5. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.
6. Liberty is reserved in favour of the State/complainant to move for cancellation/recalling of the order in case the petitioner violates any condition stipulated under Section 438 (2) Cr.P.C., or upon showing any other sufficient cause.
7. All the pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

21st March, 2024
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