



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

201

CRM-M-26507-2024 (O&M)

Date of Decision: 05.09.2024

Nitesh Kumar

.... Petitioner

Versus

State of Union Territory Chandigarh and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Vishal Yadav, Advocate for the petitioner.

Mr. Sumit Jain, Addl.P.P., U.T., Chandigarh.

Mr. Manmohan Saroop, Advocate for respondent No.2.

NIDHI GUPTA, J. (ORAL)

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.22 dated 02.03.2024 (Annexure P-1) under Section 363 IPC (Section 366 IPC added later on), registered at Police Station Mauli Jagran, Chandigarh.

On 24.05.2024, when this case was listed for hearing, following order was passed by this Court:-

“Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.22 dated 02.03.2024 (Annexure P-1) under Section 363 IPC (Section 366 IPC added later on), registered at Police Station Mauli Jagran, Chandigarh.

Learned counsel for the petitioner, inter alia, submits that initially, the FIR was registered by the mother of the alleged victim only under Section 363 IPC; however, subsequently offence under Section 366 IPC also added. It is



submitted that the date of birth of the victim is 10.04.2006; and the date of alleged incident is 01.03.2024. Accordingly, on the date of incident, the victim was 17 years, 10 months and 20 days old. Learned counsel submits that after filing of the FIR, the complainant/mother of the victim has also filed a Habeas Corpus Petition bearing CRWP-2180-2024, which is now fixed for 28.05.2024. It is submitted that, pursuant to that, the victim, who is residing with the petitioner, on her own will and collusion, has submitted an affidavit dated 30.04.2024 (Annexure P-2), wherein, she has categorically stated that she had gone with the petitioner on her own will, and is willingly staying with him; and the petitioner has never committed any wrong with her. Learned counsel for the petitioner prays for the grant of interim relief to the petitioner and undertakes that the petitioner will join the investigation and co-operate with the Investigating Agency.

Notice of motion.

On asking of the Court, Mr. Sumit Jain, Addl. P.P. for UT Chandigarh accepts notice on behalf of respondent No.1-UT Chandigarh and Mr. Manmohan Saroop, Advocate puts in appearance and filed his Vakalatnama on behalf of respondent No.2/victim.

Learned counsel for the respondent No.1-UT Chandigarh opposes the prayer made on behalf of petitioner and submits that on the date of incident, the victim was minor as she was 17 years and 11 months old. However, learned counsel for the UT Chandigarh seeks time to file detailed reply in the matter.

Learned counsel for the victim/respondent No.2 admits the facts submitted by the petitioner to be correct and true.

Adjourned to 05.09.2024.



In the meantime, the petitioner is directed to appear before the SHO/Investigating Officer to join investigation and in the event of his arrest, he shall be released on interim bail on his furnishing bail bonds to the satisfaction of SHO/Investigating Agency subject to the following conditions as envisaged under Section 438(2) Cr.P.C.

i. that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required;

ii. that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;

iii. that the petitioner shall not leave the country, without prior permission of the Court and shall surrender his passport, if any.

Meanwhile, State counsel is directed to file an affidavit as to the exact role of the petitioner alongwith the details of pending FIRs, if any, on or before the next date of hearing.”

Learned counsel for the petitioner submits that in compliance of the order dated 24.05.2022 passed by this Court, the petitioner has joined the investigation on 10.07.2024.

Learned counsel for the respondent No.1-UT Chandigarh, on instructions from SI Malkit Singh, submits that in terms of the order passed by this Court, reproduced above, the petitioner has joined the investigation on 10.07.2024 and is co-operating with the investigating agency, and no further interrogation is required, at this stage.

In view of the above, the order dated 24.05.2024 granting interim bail to the petitioner is made absolute.



However, the petitioner will abide by the conditions stipulated under Section 438(2) Cr.P.C. He will also join the investigation and cooperate with the investigating agency in case he is required for the same in future as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the investigating agency that the petitioner is required for the investigation but is not cooperating, it will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

Pending application, if any, stands disposed of.

05.09.2024

Divyanshi

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No