



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

CRM-M-29708-2024 (O&M)
Date of Decision: 22.07.2024

ARSHDEEP SINGH @ ARSH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM:- HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. K.S. Brar, Advocate
for the petitioner.

Ms. Himani Arora, AAG, Punjab.

HARPREET KAUR JEEWAN, J.

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.131 dated 08.11.2022 registered under Sections 363 and 366-A IPC at Police Station Arni Wala, District Fazilka.
2. On 12.06.2024, the Coordinate Bench of this Court passed the following order:

‘As noticed by this Court that despite the specific and serious allegations against the petitioner, inasmuch as the victim is a minor and despite the fact that FIR was lodged in November, 2022 and twice the anticipatory bail application of the petitioner was rejected by the Court of Sessions, petitioner has not been arrested by the police till date.

Notice of motion.

Mr. Somesh Arora, Addl. A.G., Punjab accepts notice on



behalf of respondent-State. Copy of paper book be supplied to him during the course of day.

Let reply be filed by the respondent-State to convince this Court as to why the petitioner has not been arrested till date.'

3. Learned counsel for the petitioner contends that the petitioner and the prosecutrix-daughter of the complainant were in a relationship with each other. The prosecutrix had already told her father that she wanted to solemnize marriage with the petitioner. The petitioner had never enticed away the prosecutrix. The prosecutrix has confirmed this fact by submitting an affidavit duly executed by her (Annexure P-2). He further contends that the prosecutrix had not stated anything incriminating against the petitioner in her statement recorded under Section 164 Cr.P.C. He submits that the petitioner is ready to join the investigation.

4. Status report by way of an affidavit of Achhru Ram Sharma, PPS, Deputy Superintendent of Police, Sub Division, Jalalabad, District Fazilka along with a copy of the statement of the victim under Section 164 Cr.P.C. (Annexure R-1/T) and statement of Harpal Singh-complainant (Annexure R-2/T) recorded on 15.07.2024, filed on behalf of the respondent-State, are taken on record.

5. Learned counsel appearing on behalf of the respondent-State has opposed the bail on the ground of gravity of allegations against the petitioner. While referring to the above-said status report, learned State counsel has informed that the police had made strenuous efforts to trace the petitioner, however, he is yet to be arrested.

6. I have considered the aforesaid contentions and perused the paper-book.



7. The FIR was registered at the instance of the father of the prosecutrix. The petitioner is a neighbourer of the complainant. The victim had once disclosed to her mother that she wanted to solemnize marriage with the petitioner, however, the prosecutrix was made to understand that she was still minor. It is further alleged that on 22.10.2022, all the family members of the victim had gone to Rajasthan for harvesting cotton crops, she was present in the house along with her grandmother. The petitioner is alleged to have enticed away the minor victim on pretext of marriage.

8. The age of the victim is verified as 16 ½ years as per the status report dated 11.07.2024 filed by way of an affidavit of Balkar Singh, PPS, Deputy Superintendent of Police, CAW, Fazilka. As per the order dated 11.07.2024 passed by this Court, learned State counsel had informed that during the investigation, the date of birth of the prosecutrix was verified as 25.03.2006 from the concerned school and after recording her statement under section 164 CR.P.C., she was sent back along with her father as per the orders of the Area Magistrate.

9. The prosecutrix in her statement recorded under Section 164 Cr.P.C. (Annexure R-1/T) has alleged that she had gone out of her house without telling anyone. Thereafter, the prosecutrix along with the petitioner had gone to Amritsar Sahib. After staying there for about 15 days, both the prosecutrix and the petitioner went to Bikaner. She had further stated that at the time of the recording of the said statement, she had been residing with the petitioner at Bikaner and that she got married to the petitioner on 17.01.2023.

10. The prosecutrix is a minor. The petitioner has not placed on record any marriage certificate. As per the paper-book, after the recording of the



statement of the prosecutrix under section 164 Cr.P.C., the prosecutrix was sent back along with her father. However, the Investigating officer has recorded the statement of the father of the prosecutrix on 15.07.2024, as per which, the prosecutrix had stayed with them for few days and thereafter she had left the company of her parents without any intimation. The victim is yet not traceable.

11. The prosecutrix was about 16 years of age at the time of the alleged occurrence and there are allegations that she had been enticed away from the lawful guardianship of her parents. The allegations against the petitioner are serious in nature. The petitioner is a neighbourer of the complainant and the identity of the petitioner is not in dispute.

12. Keeping in view the age of the prosecutrix and facts and circumstances on record, no ground is made out to grant anticipatory bail to the petitioner.

13. As such, the petition stands dismissed.

14. Nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

15. All pending miscellaneous application(s), if any, stands disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

22.07.2024
P.Bhatt

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No