

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

307

CRM-M No.31242 of 2023
Date of decision: 25.01.2024

Anshul

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Amandeep Vashisth, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

MANISHA BATRA, J.

1. The present petition has been filed under Section 439 of Cr.P.C. seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
352	16.12.2022	P.S. Civil Lines, Rohtak	365, 379B, 506, 120B, 34, 204 and 366 of IPC and 25 of Arms Act

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was initially registered under Sections 365 read with Section 34 of IPC and Section 25 of Arms Act on the basis of a complaint lodged by the complainant “J” (name withheld) on 16.12.2022 alleging that his 20 year old daughter

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studying in BA-III class had gone to her college along with two of her friends at about 7 AM. At about 8:30 AM, he received call on his phone from one of her friends who intimated that the victim had been abducted by three boys in a car in front of her college and one of them was having an armed weapon. On hearing so, the complainant immediately rushed towards the college of his daughter and on making inquiries, he came to know the name of one of them as Anshul who was also having a weapon with him. Investigation proceedings were initiated. The victim was recovered on 17.12.2022 from the custody of the accused Aman and Dev Barak from a car bearing registration No.HR-12AK-5316. Her custody was handed over to her parents. Her statement under Section 164 Cr.P.C. was recorded as per which, on the fateful day, the petitioner-Anshul along with co-accused Satender and Mohit were found present in a Zeta car in front of her college when she reached there. Anshul had alighted from the car on seeing her and tried to talk to her but when she did not respond, then on gunpoint, he forced her to board in the car. The car was rushed towards Sonapat wherein two more youths i.e. accused Aman and Dev joined them in a separate Verna car. All of them took the victim to Delhi Court where they had already hired some advocate for the purpose of solemnizing marriage of the victim with the petitioner. However, since she refused to perform marriage, therefore, nothing could be done there though she was threatened to face dire consequences. Her cell phone was taken from her. She further recorded that she had been then taken to Haridwar, Chandigarh and ultimately to Karnal Court wherein also

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efforts were made by all five of the accused to get her marriage solemnized with the petitioner Anshul but they could not succeed and thereafter, the petitioner Anshul and Satender stayed in Karnal whereas she was brought to Panipat by the co-accused Aman and Dev wherein they procured her signatures on some affidavit and then she was taken towards Rohtak from where she was recovered from their custody. In view of her statement, offences under Sections 366, 379B, 506 read with Section 120-B of IPC were also added. The accused Aman and Dev Barak were arrested on 17.12.2022. The present petitioner was arrested on 20.12.2022. He was interrogated and suffered disclosure statement admitting his involvement in the subject crime and got recovered a countrymade pistol and mobile phone of the prosecutrix which were snatched by him from her. Offence under Section 204 of IPC was also added. The remaining accused Mohit and Satender were arrested subsequently. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of the aforementioned offences.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. Infact, he was in relationship with the prosecutrix and both of them wanted to marry each other whereas the parents of the prosecutrix were against it due to the fact that they belonged to different castes and that is why, both of them had left for performing marriage

with each other against the wishes of the parents of the prosecutrix. It is further submitted that the petitioner and prosecutrix had been meeting continuously since March 2022 when they had developed love interest in each other. Even their birthdays were celebrated together. He has been falsely roped in this case on the pressure of the parents of the prosecutrix. She is a major and no force to perform marriage with him had been exerted upon her by the petitioner. He was behind the bar over a period of one year and one month. The trial was likely to take time. The co-accused Dev and Satender had already been extended benefit of bail. The investigation has since been completed and challan was presented in the Court. With these broad submissions, it is argued that the petitioner deserves to be released on bail.

4. The petition is resisted by the State in terms of the status report. Learned State counsel has vehemently argued that there are serious allegations against the petitioner. He in connivance with the co-accused had abducted the victim, had snatched her mobile phone, criminally intimidated her and kept her confined. He also possessed an unauthorized weapon which was recovered at his instance. In her statement recorded under Section 164 Cr.P.C. the victim had made specific and serious allegations against the petitioner. There were chances of his intimidating the victim and other material witnesses, if extended benefit of bail. Therefore, it is argued that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner and learned State counsel at considerable length and have gone through the record.

6. The petitioner along with the co-accused is alleged to have abducted the victim with an intention to compel her to marry with him. He is also alleged to have abducted her with intent to secretly and wrongfully confine her. However, on perusal of contents of the FIR as well as statement recorded by the prosecutrix under Section 164 of Cr.P.C., it becomes debatable as to whether any offence under Section 365 of IPC has been made out against the present petitioner at all or not? Similarly, the ingredients for commission of offence punishable under Section 379B of IPC also do not appear to have been made out even prima facie. So far as the allegation that the petitioner along with the co-accused had abducted the victim with an intention to compel her to marry with him is concerned, though in her statement as recorded under Section 164 of Cr.P.C., the prosecutrix is shown to have stated that the petitioner along with the co-accused Satender and Mohit had forcibly taken her away in a car and then to the Courts at Delhi and Karnal with an intent to compel her to perform marriage with her. However, a perusal of the photographs which have been placed on record by the petitioner as Annexure P-2 (eight photographs) reveal them to be present in the company of each other in quite comfortable position rather some of these photographs show their intimacy and prima facie, reveal that they were having an affair with each other. The petitioner is in custody since 20.12.2022. The co-accused Satender and Dev have since been extended

benefit of bail though, the allegations against are also similar in nature and it cannot be stated that the case of the petitioner is not at parity with them except the fact that he is alleged to be having love interest with the victim whereas the same are not the allegation as against the other accused. The victim is a major girl. She remained in the company of the petitioner for a period of 1-2 days. It is also a question of debate that she did not raise any alarm and also did not try to rescue herself during the intervening period from the petitioner and, therefore, a question reasonably arises that as to whether she had herself gone with the petitioner or it was a case of abduction at all. Keeping in view the nature of the discussion as made above, the nature of the subject offences, the period of incarceration of the petitioner and on the ground of parity but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition deserves to be allowed. Hence, the same is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court concerned.

7. However, at the same time, to elevate the bona fide apprehension raised by the prosecution, it is ordered that the petitioner will not enter into or reside within the vicinity wherein the victim is residing, until the conclusion of the trial of the case, shall not intimidate or attempt to influence the victim or any other material witness and shall not tamper with the evidence. The petitioner shall not leave India without the previous permission of the Court. In case of violation of any of above

condition, the jurisdictional Court concerned will be empowered to consider the application for cancellation of bail of the petitioner, if required and pass appropriate orders in accordance with law.

25.01.2024

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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No