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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30643-2024 (O&M)
Date of Decision: 29.07.2024

VIPAN CHAUDHARY @ VIPAN KUMAR

.. Petitioner

Vs.

STATE OF PUNJAB AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Naveen Batra, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Rahul Garg, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.0069 dated 04.06.2024 registered under Section 376(2)(n) of IPC and Section 6 of POCSO Act, 2012 at Police Station Anandpur Sahib, District Rupnagar.

2. On 27.06.2024, the following order was passed:-

“The instant petition has been filed under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in case arising out of FIR No.69 dated 04.06.2024 registered under Sections 376(2)(n) of IPC and Section 6 of POCSO Act, 2012 at Police Station Anandpur Sahib, District Rupnagar on the basis of statement recorded by the prosecutrix-respondent No.2 on 04.06.2024 alleging therein that she came into contact with the present petitioner in the year 2023 and they had conversations on phone and gradually physical intimacy had been established between them. She had become pregnant and on coming to know about this fact, she ran away from her house and the petitioner performed marriage with her with her own consent. On the same day i.e.04.06.2024, due to deterioration in her health condition, she had been brought to the civil hospital Sri Anandpur Sahib by the petitioner for treatment and delivered a girl child therein. As the prosecutrix

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was found to be 17 years and 358 days of age as on 04.06.2024, therefore, intimation was sent to the Police and the instant FIR was registered. The petitioner apprehending his arrest had also moved an application before the Court of learned Additional Sessions Judge, Rupnagar, which had been dismissed vide order dated 18.06.2024.

It is argued by learned counsel for the petitioner that he has performed marriage with respondent No.2 with her own consent as well as with the consent of their respective family. Now she has become major and she has been living happily with him. It is also argued that the custodial interrogation of the petitioner is not required and he is ready to join investigation and no useful purpose would be served by detaining him in the custody. Hence, it is urged that the present petition deserves to be allowed.

Notice of motion.

Learned State counsel who has appeared on advance notice of the petition, seeks time to file status report in the matter. He has submitted that respondent No.2 was minor at the time when she was impregnated by the petitioner. Therefore, he does not deserve to be given concession of bail, though have it is fairly conceded by him that they have performed marriage and are living A happily.

At this stage, Mr. Rahul Garg, Advocate accepts notice on behalf of respondent No.2 and has filed his memo of appearance. He submits that since respondent No.2 is living peacefully and happily with the present petitioner, therefore, she has no objection if the present petition is allowed.

Adjourned to 29.07.2024.

In the meantime, the petitioner is directed to appear before the Investigating/Arresting Officer to join investigation within one week or as and when subsequently required thereafter. In the event of his arrest, the Investigating/Arresting Officer shall release the petitioner on interim bail on furnishing personal/surety bonds to his/her satisfaction. The petitioner shall also abide by the conditions as envisaged under Section 438(2) Cr.P.C.”

3. Learned State counsel, on instructions from ASI Raj Kumar, has stated that pursuant to the order dated 27.06.2024, the petitioner has joined investigation and is no longer required for custodial interrogation.
4. Learned counsel for the complainant/respondent No.2 submits that the complainant is living happily with the petitioner and thus he does not oppose the instant petition.



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5. In view of above, the petition is allowed and interim order dated 27.06.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.
6. This order should not be treated as “blanket” order. It will not be interpreted as granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.
7. Liberty is reserved in favour of State/complainant to move for cancellation/recall of this order in case the petitioner violates any condition stipulated under Section 438(2) Cr.P.C., 1973 or upon showing any other sufficient cause.
8. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.
9. Pending applications, if any, shall also stand disposed off.

29.07.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No