



Sr. No.326

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31160-2024
Date of decision: 18th September 2024

DILDAR MASIH AND ANRPetitioners

versus

STATE OF PUNJABRespondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Ms. Amarjot Kaur, Advocate
for the petitioners.

Mr. Davinder Bir Singh, Sr. DAG, Punjab.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioners in case FIR No.03 dated 07.01.2023, under Sections 363 and 366-A read with Section 34 IPC, 1860 (Section 376 IPC and Section 6 of the Protection of Children from Sexual Offences, Act, 2012, added later on), registered at Police Station Kahnuwan, District Gurdaspur.

2. On 31.07.2024, following order was passed while granting interim bail to the petitioners:-

“xxx xxx xxx xxx

2. *Learned counsel for the petitioners inter alia contends that initially the FIR was registered under Sections 363 and 366-A IPC read with Section 34 thereof and the petitioners have joined the investigation and the application filed for anticipatory bail on behalf of the petitioner was allowed, as per the order dated 27.01.2023 (Annexure P-2). It is further contended that the petitioners are the parents of the co-accused Abhishek.*

3. *Notice of motion.*



4. *Having received advance copy of the petition, Ms. Himani Arora, A.A.G., Punjab, accepts notice on behalf of the respondent-State and seeks time to file reply.*

5. *Mr. Anshul Sharma, Advocate, for Ms. Pragti Kumari, Advocate, accepts notice on behalf of the complainant.*

6. *Learned counsel for the State has confirmed that the co-accused Abhishek is in custody and even the final report ('challan') has been presented on 01.05.2024.*

7. *Learned counsel for the petitioners further submits that the offence under Section 376 was later on added and thereafter, the application on behalf of the petitioners for grant of anticipatory bail was dismissed by the trial Court. However, the complainant-father of the victim had executed an affidavit, dated 03.06.2024 (Annexure P-3) and even the prosecutrix has executed an affidavit of the same date (Annexure P-4), whereby they do not want to take action against the petitioners and it has been categorically alleged in the said affidavit that the prosecutrix got married to Abhishek (co-accused of the petitioner) and they have been living together.*

8. *It is further contended that the prosecutrix is major.*

9. *Learned State counsel has submitted a copy of the statement of the prosecutrix recorded under the provisions of Section 164 Cr.P.C. whereby she has stated that her family wanted to get her married with some old aged person. Her ring ceremony was also done and the date for marriage was fixed. Earlier she had eloped away from her home as she was having love affair with the aforesaid Abhishek. She had eloped with her own free will and consent and there was no pressure upon her.*

10. *Learned counsel for the State has disputed the contention that the prosecutrix is major.*

11. *Adjourned to 18.09.2024.*

12. *Both the parties may file affidavits and the documents regarding the age of the prosecutrix.*



13. In the meanwhile, the petitioners are directed to join investigation within ten days and in the event of arrest, they shall be released on interim bail, on their furnishing bail bonds and surety bonds to the satisfaction of the arresting officer/Area Magistrate and also subject to the following conditions:-

(i) That the petitioners shall further make themselves available for interrogation by a police officer as and when required.

(ii) That the petitioners 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 from disclosing such facts to the Court or to any police officer.

(iii) That the petitioners shall not leave India without the prior permission of the Trial Court/CJM concerned.”

3. Learned counsel for the petitioners contends that the petitioners have joined investigation in compliance of the aforesaid order dated 31.07.2024.

4. Learned State counsel has confirmed that the petitioners have joined investigation and also contends that their further custodial interrogation is not required. He further submits that the victim has not stated anything against the petitioners in her statement recorded under Section 164 Cr.P.C.

5. Keeping in view the above facts and in view of the detailed reasons recorded in the order dated 31.07.2024, the present petition is allowed and the order dated 31.07.2024, granting interim bail to the petitioners is made absolute, subject to the conditions laid down under Section 438(2) Cr.P.C.

6. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

7. Liberty is reserved in favour of the State/complainant to move for cancellation/recalling of the order in case the petitioners violate any condition



stipulated under Section 438 (2) Cr.P.C., or upon showing any other sufficient cause.

8. Pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

18th September 2024
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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>