

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-35947 of 2023

DATE OF DECISION :- 29.02.2024

Asif

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Satish Chaudhary, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana

SUMEET GOEL, J. (Oral)

1. On 27.07.2023, the following order was passed:-

“Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No. 269 dated 27.8.2022, under Sections 363, 366-A, 212 and 506 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Nagina, District Nuh.

Learned counsel for the petitioner inter alia submits that the petitioner and the victim/complainant have solemnized marriage and are living happily together.

Notice of motion.

On asking of the Court, Mr. Arjun Lakhanpal, Addl. A.G., Haryana accepts notice on behalf of respondent-State and submits that there is variation in the age of the victim because as per the FIR, age of the victim is shown as 16 years; as per the compromise alleged to have been effected between the parties, the age of the victim is shown as 17 years; and as per petition filed on behalf of petitioner and complainant for protection, her age is stated as 18 years. Learned State counsel on instructions from the Investigating Officer, does not dispute the factum regarding solemnization of marriage between

petitioner and complainant. However, learned State counsel seeks time to file the detailed reply in the matter.

Adjourned to 30.10.2023.

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 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/status report as to the exact role of the petitioner alongwith the details of pending FIRs, if any, on or before the next date of hearing.”

2. Learned State counsel, on instructions from SI Vaneeta, has stated that pursuant to the order dated 27.07.2023, the petitioner has joined investigation and is no longer required for custodial interrogation. Learned State counsel has further submitted that the petitioner and the victim are living together as husband and wife.

3. In view of above, the present petition stands allowed and the interim order dated 27.07.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

4. This order should not be treated as “blanket” order. It will not be read 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.

5. 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.
6. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

29.02.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No