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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35852-2024
Date of decision: 27.08.2024

JAKAR KHAN

V/S

...PETITIONER

STATE OF HARYANA

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manoj Tanwar, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. Through instant petition, the petitioner is seeking anticipatory bail in case FIR No.127 dated 01.05.2024 under Sections 9 & 10 of Child Marriage Prohibition Act, 2006 and Section 6 of POCSO Act (added later on) registered at Police Station Punhana District Nuh, Mewat Haryana.

2. On 29.07.2024, following order was passed:

“The present petition has been filed under Section 438 of Cr.P.C. seeking anticipatory bail to the petitioner in case bearing FIR No.127 dated 01.05.2024 under Sections 9 & 10 of Child Marriage Prohibition Act, 2006 and Section 6 of POCSO Act (added later on) registered at Police Station Punhana District Nuh, Mewat Haryana (Annexure P-1).

Learned counsel for the petitioner inter alia contends that POCSO Act is not made out as per the case set up by the prosecution. No allegation with regard to sexual harassment has been levelled against the petitioner and it would be a moot point to be determined by the learned trial Court whether the victim/prosecutrix is minor or major as per the personal law. The marriage between the



petitioner and the prosecutrix/victim is valid but the marriage has not been consummated only Nikahnama was prepared.

Notice of motion.

On the asking of the Court, Mr. Subhash Godara, Addl.A.G., Punjab, who is present in Court, accepts notice on behalf of the respondent-State.

Mr. Intizar-Ul-Hasan, Advocate puts in appearance on behalf of the complainant and files his vakalatnama in the Court today which is taken on record. He vehemently opposes the prayer made by the petitioner on the ground that at this stage, the veracity of the documents with regard to the age of the victim cannot be inquired into rather the petitioner has got the entry changed in the Aadhar Card and the victim was recovered from the house of the petitioner, as such, his contention that his marriage was not consummated is incorrect.

Mr. Sarfaraj Anjum Mor, Advocate puts in appearance on behalf of the victim and files his vakalatnama in the Court today which is taken on record. He submits that the victim has performed marriage with the petitioner which is legal for all intents and purposes.

*In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in **Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi 2020 (1) RCR (Criminal) 833**, at the first instance, the petitioner is directed to appear before the Investigating Officer within two weeks from today and on his doing so or in the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner shall cooperate with the Investigating/Arresting Officer and abide by the conditions as provided under Section 438 (2) Cr.P.C.*

If the Investigating/Arresting Officer does not permit



the petitioner to join the investigation, the petitioner would appear before the Illaqa Magistrate, who would then summon the Investigating/Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 27.08.2024.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.”

3. Learned State counsel, on instructions from ASI Sunil Devi, submits that in compliance of order dated 29.07.2024 passed by this Court, the petitioner has joined the investigation and is not required for further custodial interrogation.
4. Keeping in view the statement made by learned State Counsel, the order dated 29.07.2024, is made absolute. The petitioner shall abide by the terms and conditions enumerated in Section 438(2) Cr.P.C.
5. The petition is accordingly disposed of.
6. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

August 27, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No