

CRM-M-36081-2024 (O&M)

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

2024:PHHC:153899

**CRM-M-36081-2024 (O&M)
Reserved on: 24 th September 2024
Date of decision: 18.11.2024**

PUSHPINDER @ PUSHWINDER @ KALAPETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Rajat Verma, Advocate and
Mr. Sushil Kumar Verma, Advocate for the petitioner.
Ms. Himani Arora, AAG, Punjab.

HARPREET KAUR JEEWAN, J.

1. The instant first petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 seeking anticipatory bail in case FIR No.228 dated 19.11.2022, under Sections 363, 366 IPC, 1860 (Section 120-B IPC added later on), registered at Police Station Mahilpur, District Hoshiarpur (Annexure P-1).

2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The complainant wanted to forcibly solemnize the marriage of his step-daughter with some unknown person for monetary considerations. The step-daughter of the complainant left her parental house and solemnized marriage with the petitioner on 08.01.2023 at Gunnaur, Sambhal, UP. It is further contended that it was a love marriage and the same was solemnized against the wishes of the

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complainant, as such, the present FIR has been got registered. Copy of the Marriage Certificate dated 12.01.2023, issued by the Marriage Registration Officer, Gunnaur, District Sambhal (Annexure P-2), is a part of the paper book. Even a child is born out of the wedlock and copy of birth certificate of the child is Annexure P-7.

2.1 It is further contended that the prosecutrix moved a representation dated 06.12.2023 to the SSP, Hoshiarpur (Annexure P-3). However, in February 2024, the petitioner and his family members have appeared before this Court after receiving a notice in CRM-M-2320-2024, titled as **“Radhe Shyam vs. State of Punjab and Others”**. It is further contended that the entire family of the petitioner has been implicated in a false FIR.

3. Learned State counsel has opposed the present petition on the ground of gravity of allegations levelled against the petitioner. He submits that the Birth Certificate as well as the Aadhaar Card of the daughter of the complainant were found to be fake during the verification carried out at the time of pendency of the earlier Civil Writ Petition bearing No.**CRWP-2042-2024, titled as “Sohani and others vs. State of Punjab and others”**.

4. I have heard learned counsel for the parties and perused the relevant documents.

5. The petitioner is apprehending his arrest in an FIR which was registered at the instance of the father of the prosecutrix. As per the version in the FIR, the petitioner is a neighbourer of the complainant. On 09.11.2022 at about 8.30 A.M., the petitioner enticed away the prosecutrix, who was a student of 7th class. The younger daughter of the complainant gave information to her father that the petitioner had taken the prosecutrix on his

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motor-cycle. Initially, the report was lodged regarding missing of the prosecutrix.

6. The petitioner is relying upon the Certificate of Registration of Marriage (Annexure P-2). The age of the petitioner is reflected as 21 years and the age of the prosecutrix is recorded as 20 years in the said certificate.

7. As per the prosecution, the date of birth of the prosecutrix is 14.06.2007, on the basis of her School certificate. She was minor and her age was about 15 years and 4 months at the time of alleged occurrence on 09.11.2022. The prosecutrix filed CRWP-2042-2024 before this Court seeking a direction to the official respondents to conduct free and fair investigation. In the said writ petition the prosecutrix alleged her date of birth as 01.01.2003 on the basis of birth certificate issued by the Registrar (Birth and Death), Sadar Hospital, Ludhiana and also relied upon the date of birth entry in the Aadhar Card. A contention was also raised in the said petition that prosecutrix has solemnized marriage with the present petitioner Pushpinder. A contention was raised regarding the authenticity of birth certificate and Aadhar Card in the said petition and State was directed to verify about the authenticity of the said documents. The Deputy Superintendent of Police submitted an affidavit in the said petition that on verification, the said birth certificate submitted by the prosecutrix and her Aadhar Card were found fake. As per the report received from the Office of Registrar (Birth and Death), Ludhiana vide a letter dated 28.05.2024, no such birth certificate was issued on 19.11.2022 in the name of the prosecutrix. It was further submitted in the said affidavit that the date of birth mentioned in the Aadhar Card as well as on the marriage certificate is not actual date of birth of the petitioners. A verification was also done

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from the School records and the date of birth of the victim was verified as 14.06.2007. Following observations were made while disposing of the said petition on 25.07.2024 that the prosecutrix be produced before the Area Magistrate for recording of her statement under Section 164 Cr.PC.

“5. Learned State counsel has verified the said documents and submitted short affidavit of Parminder Singh, PPS, Deputy Superintendent of Police, SubDivision-Garshankar, District Hoshiarpur on behalf of respondents No.1 to 3 in the Court today, which is taken on record. As per the said affidavit, necessary verification regarding authenticity of the said documents i.e the birth certificate of daughter of respondent No.5 (Annexure P-1) and Aadhar Card of the daughter of respondent No.5 (Annexure P-2) was carried out by the Investigating Officer. As per the report submitted by the office of Registrar (Birth and Death), Ludhiana vide letter No.236/LR dated 28.05.2024, no such birth certificate was issued on 19.11.2022 in the name of daughter of respondent No.5. The date of birth mentioned on the Aadhar Card of both the petitioners as well as on their marriage certificate is not actual date of birth of the petitioners.

6. The report of Parminder Singh, PPS, Deputy Superintendent of Police in the aforesaid short affidavit prima facie shows that the petitioners have submitted fabricated documents in this Court. As per the status report, State has verified the date of birth of the prosecutrix from the Principal of Government Senior Secondary School, District Hoshiarpur and

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as per the certificate issued by the said Principal (Annexure R-2), the date of birth of the victim is 14.06.2007. In such circumstances, petitioner No.1-XXX, who is daughter of respondent No.5, is a minor.”

8. Keeping in view the aforesaid facts and circumstances that the petitioner is relying upon such documents which are prima facie found to be false, the petitioner is not entitled to the concession of anticipatory bail on the ground that he has solemnized marriage with the prosecutrix.

9. Consequently, the present petition stands dismissed.

10. Pending miscellaneous application(s), if any, shall also stand disposed of.

18.11.2024

Janki

**(HARPREET KAUR JEEWAN)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No