

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

1. CRM-M-45601-2023 (O&M)

Balwinder Kaur

...Petitioner

Versus

State of Punjab

...Respondent

2. CRM-M-50096-2023 (O&M)

Major Singh

...Petitioner

Versus

State of Punjab

...Respondent

Date of decision: 19.01.2024

CORAM:- HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Ms. Satwant Mehta, Advocate
for the petitioner(s).

Ms. Ruchika Sabherwal, DAG, Punjab.

Mr. Sukhbir Maandi, Advocate
for the complainant.

MANISHA BATRA, J. (Oral)

1. This common order shall dispose of above mentioned two petitions as they arise out of the same FIR.
2. Prayers in these petitions, filed under Section 438 of the Code of Criminal Procedure, are for grant of anticipatory bail to the petitioners

Balwinder Kaur and Major Singh in case FIR No. 34 dated 10.06.2023, registered under Sections 363, 366-A, 376 and 120-B of the IPC and Section 4 of the POCSO Act, 2012 at Police Station Bhindi Saidan, District Amritsar (Rural).

3. The aforementioned FIR was registered on the basis of the statement recorded by complainant 'R' (*name withheld*) alleging therein that his grand daughter 'G' (*name withheld*), aged about 15 years, was found missing from their house in the morning of 09.06.2023. He along with other family members had made searches for her and now he had come to know that she had been taken away by accused Jarnail Singh with an intent to perform marriage with her, in connivance with the present petitioners, who are mother and brother, respectively, of main accused Jarnail Singh. Investigation proceedings have been initiated. The victim was recovered from the custody of aforesaid Jarnail Singh. Her statement under Section 164 Cr.P.C. was got recorded, wherein she stated that accused Jarnail Singh had taken her away and had committed rape upon her. Thereafter, offence under Section 4 of the POCSO Act was added and investigation is going on.

4. The instant petitions have been filed by the petitioners on the ground and it has been submitted by their counsel that they have been falsely implicated in this case. The victim had not named them in her statement recorded under Section 164 Cr.P.C. They were roped in only because of the fact that they were family members of main accused Jarnail Singh. In fact, as per birth certificate of the victim, she was only three months short of 18 years. The petitioners have joined investigation. Their custodial interrogation is not required. It is, thus, prayed that the present petitions deserve to be allowed.

5. *Per contra*, learned State counsel, assisted by learned counsel for the complainant, has submitted that it was in connivance with the petitioners that the victim had been taken away by accused Jarnail Singh and had been ravished by him. However, he has not disputed the fact that the petitioners have joined investigation on 20.10.2023 and they are not required for any custodial interrogation.

6. I have heard learned counsel for the parties at length and have gone through the material place on record. The petitioners, after being granted concession of interim anticipatory bail by this Court, have joined investigation on 20.10.2023 and as per learned State counsel, they are not required for any custodial interrogation. The victim, in her statement recorded under Section 164 Cr.P.C., is not shown to have named the petitioners. There is nothing on record to show at this stage that the victim was kidnapped/abducted and then ravished by Jarnail Singh in connivance with the petitioners.

7. Considering the above facts but without commenting anything on the merits of the case, the present petitions are allowed and the interim bail granted to the petitioners, vide orders dated 13.09.2023 and 05.10.2023, respectively, is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

8. Let a photocopy of this order be placed on the file of connected case.

19.01.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No