

211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49972-2023 (O&M)
Date of Decision: 01.02.2024

SHINDA AND ANOTHER
.....PETITIONERS

Vs.

STATE OF PUNJAB AND OTHERS
.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Navraj Singh, Advocate,
for the petitioner.

Mr. Kunwarbir Singh, A.A.G., Punjab.

Mr. Jaspreet Banga, Advocate, for
Mr. Lakhvir Singh, Advocate,
for respondent No. 2.

HARPREET KAUR JEEWAN J. (ORAL)

1. The instant petition has been filed under Section 438 Cr.P.C for grant of anticipatory bail to the petitioner in case FIR No. 50 dated 28.05.2021 under Sections 363, 366 and 376 of the IPC read with Section 120-B thereof and Sections 6, 8 and 17 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Bholath, District Kapurthala.
2. Counsel for the petitioners *inter alia* contends that the son of the petitioners, who is stated to be the main accused in the present FIR, got married to the alleged victim/daughter of the complainant (respondent No. 2) as per the marriage certificate dated 28.02.2023 (Annexure P-2). The petitioners have no role and have been falsely implicated in this case.

3. Counsel for the petitioners further submits that the petitioner were granted interim bail as per the order dated 04.10.2023 passed by the co-ordinate Bench of this Court.

4. The relevant portion of the aforesaid said order reads as under:-

XXXX XXXX XXXX XXXX

“Learned counsel for the petitioners inter alia submits that the son of the petitioners is married to the alleged victim/daughter of the complainant as is evident from the Marriage Certificate dated 28.2.2023 (Annexure P-2). Learned counsel submits that the petitioners have been falsely roped into the matter and no offence as alleged in the FIR is made out. It is further submitted that the matter also stands compromised vide compromise/settlement deed dated 11.9.2023 (Annexure P-4). Learned counsel states that the petitioners are old aged persons, and are ready to join the investigation and undertake to cooperate in the investigation and therefore prays that the concession of anticipatory bail be granted to the petitioners.

Notice of motion.

On asking of the Court, Mr. Sanish Girdhar, AAG, Punjab accepts notice on behalf of respondent-State and seeks time to file detailed status report in the matter.

Mr. Lakhvir Singh, Advocate has put in appearance on behalf of complainant/respondent No. 2; and victim/ respondent No.3 and filed his Power of Attorney, which is taken on record. Learned counsel does not dispute the factum of marriage between son of the petitioners and the victim; and the compromise effected between the private parties.

Adjourned to 25.1.2024.

In the meantime, the petitioners are directed to appear before the SHO/Investigating Officer to join investigation and in the event of their arrest, they shall be released on interim bail on their 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 petitioners shall make themselves available for interrogation before the Investigating 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/her from disclosing such facts to the Court or to any police officer ;

iii) that the petitioners shall not leave the country, without prior permission of the Court and shall surrender their passport, if any.

Meanwhile, State counsel is directed to file an affidavit/status report as to the exact role of the petitioners alongwith the details of pending FIRs, if any, on or before the next date of hearing.”

XXXX XXXX XXXX XXXX

5. Counsel for the petitioners further submits that the petitioners have joined the investigation in compliance of the aforesaid order dated 04.10.2023 passed by the co-ordinate Bench of this Court.

6. Learned counsel appearing on behalf of the respondent-State on instructions from ASI Ravinder Singh confirms that the petitioners have

joined investigation and also contends that their further custodial interrogation is not required. He further submits that the main accused, i.e. the son of the petitioner was arrested and the final report under Section 173 Cr.P.C. has also been presented before the learned trial Court even qua the present petitioners.

7. The counsel appearing on behalf of the complainant contends that that there are serious allegations against the petitioners and as such, opposed the petition for bail.

8. In view of the reasons recorded in the order dated 04.10.2023 and keeping in view the fact that the petitioners have joined the investigation, their custodial interrogation is not required by the Investigating Agency, the investigation is complete and the '*challan*' has also been presented before the trial Court and the main accused, i.e. the son of the petitioners has already been arrested by the police, the present petition is allowed and the order dated 04.10.2023 passed by the co-ordinate Bench of this Court, granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438(2) Cr.P.C.

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

10. Liberty is reserved in favour of the State/complainant to move for cancellation/recall of the order in case the petitioner violates any condition stipulated under Section 438 (2) Cr.P.C., or upon showing any other sufficient cause.

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

February 01, 2024
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether reportable	No