

Sr. No.212

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51827-2023
Date of decision: 11th March, 2024

BHART @ BHARAT JOGHIPetitioner

versus

STATE OF PUNJABRespondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Vishal Thakur, Advocate
for the petitioner.

Mr. Gurpartap Singh Bhullar, AAG, Punjab.

Mr. Sumit Chahal, Advocate for
Mr. Sudhir Rana, Advocate
for the victim.

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.258 dated 04.10.2022, under Sections 363 and 366-A IPC, 1860, registered at Police Station Model Town, District Hoshiarpur.

2. Learned counsel for the petitioner contends that the prosecutrix turned major on 04.06.2023 and as per the marriage certificate (Annexure P-2), the petitioner has solemnized marriage with the prosecutrix on 17.06.2023. It is further contended that the petitioner was granted interim bail as per the order dated 12.10.2023 passed by the Coordinate Bench of this Court. The relevant portion of the aforesaid said order reads as under:-

“xxx xxx xxx xxx

Learned counsel for the petitioner, inter alia, submits that the petitioner has been falsely implicated in the present case. The petitioner is alleged to have kidnapped the victim who was aged about 17 years at the time of occurrence. It is

submitted that the date of occurrence is 28.09.2022 at around 3:40 PM, however, the present FIR was registered by the mother of the victim, almost a week thereafter on 04.10.2022. It is further submitted that the petitioner has now solemnized marriage with the victim on 17.06.2023, after she attained the age of majority, as is evident from marriage certificate dated 17.06.2023 (Annexure P-2). It is also submitted that co-accused of the petitioner, namely; Amar/father of the petitioner has already been granted the concession of anticipatory bail by a co-ordinate Bench of this Court vide order dated 25.04.2023 (Annexure P-5). Nothing has to be recovered from the petitioner, therefore, his custodial interrogation is not required. The petitioner is ready to join the investigation as and when required and shall abide by all the terms and conditions imposed upon him.

Notice of motion.

On the asking of Court, Mr. Shubham Kaushik, AAG, Punjab accepts notice on behalf of respondent-State; whereas Mr. Sudhir Rana, Advocate, has put in appearance on behalf of the victim and submits his Vakalatnama, which is taken on record.

Learned counsel for the victim submits that he has 'no objection' in case, the petitioner is granted the concession of anticipatory bail. He further submits that at present the victim is living with the petitioner as his wife.

On the other hand, learned counsel for the State vehemently opposed the prayer for grant of anticipatory bail to the petitioner and submits that even if, the victim had willingly gone with petitioner, but the same is of no consequence as she was minor at the time of occurrence. However, learned counsel for the State does not deny the factum of marriage of the petitioner with the victim.

Adjourned to 16.01.2024.

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 interim 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 along with the details of pending FIRs, if any, on or before the next date of hearing.

xxx xxx xxx xxx”

3. In the status report filed by way of affidavit of Sh. Palwinder Singh, PPS, Deputy Superintendent of Police, Sub-Division City, District Hoshiarpur, it is mentioned that as per the Aadhaar Card of the victim, her date of birth is 04.06.2005.

3.1 Learned counsel appearing on behalf of the respondent-State confirms that the petitioner has joined investigation and also contends that his further custodial interrogation is not required.

4. Learned counsel appearing on behalf of the victim has also verified the fact that the petitioner has solemnized marriage with the prosecutrix on 17.06.2023.

5. In view of the reasons recorded in the order dated 12.10.2023, passed by the Coordinate Bench of this Court and keeping in view the fact that the petitioner has joined investigation and his further custodial interrogation is not required by the Investigating Agency, the present petition is allowed and the order dated 12.10.2023, passed by the Coordinate Bench of this Court, granting interim bail to the petitioner, is made absolute, subject to the conditions laid down under Section 438(2) Cr.P.C.

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

7. Liberty is reserved in favour of the State/complainant to move an application for cancellation/recalling 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.

8. All the pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

11th March, 2024
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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>