

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.64980 of 2023
Date of decision: 28.02.2024

ROBIN DEEP SINGH

.... Petitioner

Versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

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

Ms. Ruchika Sabherwal, Sr. D.A.G., Punjab.

Mr. Parveen Chauhan, Advocate for the complainant.

MANISHA BATRA, J. (oral)

1. The instant petition has been filed by the petitioner under Section 438 of Cr.P.C seeking pre-arrest bail in case arising out of FIR No.244 dated 14.10.2022 registered under Sections 376 and 506 of IPC and Section 4 of POCSO Act and Sections 9 and 10 of Prohibition of Child Marriage Act, 2006 at Police Station Dharamkot, Moga on the basis of statement recorded by the complainant-‘R’(name withheld) on 14.10.2022 alleging therein that the prosecutrix-‘K’(name withheld) was her daughter aged about 17 years. Her husband had died and she along with her daughter had been residing in her mother’s house. On 21.07.2022, she was not present at home, when the accused Aman Singh who is her brother-in-law, came to her house and asked the prosecutrix to accompany him. He forcibly took away the prosecutrix with him. On coming back to home, the mother of the complainant had disclosed this fact to her and then she made enquiries from the accused Aman Singh and other member of her in-laws family but they did not disclose anything to her. Then, she came to know that they had forcibly performed marriage of her

minor daughter with someone. After some days, her daughter came back to home and disclosed that the accused Aman Singh along with co-accused had forcibly got her marriage performed with the present petitioner despite her resistance and the petitioner had got her sexually exploited her w.e.f. 25.07.2022 to 10.08.2022. She prayed for taking penal action against the culprit on the basis of this statement. After registration of the FIR, investigation proceedings were initiated. The prosecutrix recorded her statement under Section 164 of Cr.P.C. and then under Section 161 of Cr.P.C. as well disclosing that she was ravished by the present petitioner after she was forced to solemnize marriage with him. On the basis of this statement, offences under Section 376 of IPC and Section 4 of POCSO Act, were registered and the investigation is going on.

2. The present petition has been filed by the petitioner on the ground and it is argued by his counsel that he has been falsely implicated in this case. In fact, the marriage of the victim was got solemnized with the petitioner with her consent and she was happy at the time of her marriage.

3. Learned counsel for the petitioner has drawn attention of this Court towards the photographs annexed with the petition as Annexure P-2(Colly.) wherein, the victim is shown to be in a bridal dress and one photograph with the present petitioner also. He further submitted that these photographs showed that she was happy on her marriage with the petitioner. It is argued that the allegations as levelled against the petitioner are false. The petitioner is ready to join the investigation and his custodial interrogation is not required. Therefore, it is argued by him that the petition deserves to be allowed.

4. At this stage, Mr. Parveen Chauhan, Advocate files his memo of appearance on behalf of the complainant. The same is taken on record.

5. Learned State counsel assisted by counsel for the complainant has submitted that as per the status report victim's uncle, namely, Aman Singh had forcibly taken away the prosecutrix from the house of her mother on 21.07.2022 on some false pretext and in connivance with the co-accused, had forcibly got her marriage solemnized with the present petitioner. The victim is a minor and in her statement as recorded under Sections 164 as well as 161 of Cr.P.C., she has levelled specific allegations that her marriage was forcibly performed against her wishes and that she was ravished by the petitioner. It is further submitted that the custodial interrogation of the petitioner is required and therefore, the petition does not deserve to be allowed.

6. I have heard learned counsel for the parties.

7. The petitioner is alleged to have performed marriage with the prosecutrix who was minor aged about 17 years as on 22.07.2022 and is further alleged to have forcibly ravished her during the period from 25.07.2022 to 10.08.2022. The allegations against the petitioner are serious in nature, therefore, I am of the considered opinion that he is not entitled to concession of anticipatory bail. The well settled proposition of law is that anticipatory bail should not be granted likely and in a routine manner. The grant of refusal of such bail depends upon the variety of circumstances, the cumulative effect of which should enter the judicial verdict. Powers under this section are to be exercised sparingly and in extra ordinary circumstances. It should be seen that an order of anticipatory bail should does not operate as inroad in the normal legal procedure of criminal cases by the trial Court. In the light of the reasons as disclosed above but without commenting further on merits, lest it may

prejudice the case of either side during the course of trial of the main case, the petition is dismissed as such, in the obtaining circumstances of the case.

8 Needless to mention that nothing observed, hereinabove, would reflect, on the merits of the case, in any manner as the same has been recorded for the limited purpose of deciding the present petition for anticipatory bail.

28.02.2024

Jyoti-IV

Whether speaking/reasoned:

Whether reportable :

Yes/No.

Yes/No

(MANISHA BATRA)

JUDGE