

CRM-M-539 of 2025

2025:PHHC:002425



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

CRM-M-539 of 2025

Date of decision: 10.01.2025

Heera Masih

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Rajesh Kapila, Advocate, and
Ms. Himani Kapila, Advocate,
for the petitioner.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

1. This petition has been filed by the petitioner under Section 482 of the Bharatiya Nagrik Suraksha Sanhita, 2023 seeking anticipatory bail in case FIR No.68 dated 10.12.2024, registered under Sections 137(2), 87 of the Bharatiya Nyaya Sanhita, 2023 at Police Station Purana Shalla, District Gurdaspur.

2. Present FIR was registered on the statement of complainant to the effect that he is earning his livelihood by doing labour work and he has three children, out of them youngest daughter/prosecutrix, whose date of birth is 24.10.2002 and passed 10th grade from Government Senior Secondary School, Purana Shalla. In

the intervening night of 03/04.12.2024 his entire family went to sleep



and at about 2.30 a.m., he woke up and saw that his daughter/victim was not present on her bed. They traced their daughter but could not trace her. The complainant has alleged that his daughter has been enticed away by petitioner in connivance with Happy Masih on the false promise of marriage.

3. Learned counsel for the petitioner has contended that the petitioner is innocent and has been falsely implicated in the present case. Learned counsel submitted that petitioner has not committed the alleged offence as he is aged about 31 years and is a married person having two children. He further contended that there is unexplained delay of six days in lodging the present FIR. Petitioner is not involved in any other case and no recovery is to be effected from him. Learned counsel further submitted that petitioner is ready and willing to join the investigation.

4. Per contra, learned State counsel, assisted by learned counsel for the complainant, opposed the prayer for grant of anticipatory bail to the petitioner on the ground that serious allegations have been levelled against the petitioner, therefore, he does not deserve the concession of anticipatory bail.

5. I have heard learned counsel for the parties and perused the record.

6. As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. (now Section



482 of the Bharatiya Nagrik Suraksha Sanhita, 2023) is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

7. There are specific and serious allegations against the petitioner that he along with Happy Masih kidnapped the minor daughter of the petitioner, who is yet to be recovered. Custodial interrogation of the petitioner may provide information leading to discovery of material facts. Curtailing of their freedom is necessary in order to enable the investigation to proceed without hindrance and to protect witnesses.

8. Reliance can be placed upon the Hon'ble Supreme Court dictum passed in *Prem Shankar Prasad v. The State of Bihar and another, 2021(4) RCR (Crl.) 598* and *Anil Kumar Singh v. High Court of Judicature at Patna through its Registrar General and another, (2020)19 Supreme Court Cases 364* whereby the Hon'ble Apex Court had denied the concession of anticipatory bail in view of the gravity of offences and the conduct of the petitioner.

9. No other point has been argued.

10. In view of the facts and circumstances of the case, I am of the considered view that petitioner cannot *prima facie* be said to have been falsely enroped in the crime and his custodial interrogation is



necessary in the case and that petitioner is likely to abscond and misuse his liberty and does not deserve grant of anticipatory bail.

- 11. In view of the above, the petition is dismissed.
- 12. However, nothing stated hereinabove shall be construed as a final expression of opinion on the merits of the case.

10.01.2025
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No