

2025:PHHC:047647



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

Sr. No.208

CRM-M-57849-2024 (O&M)
Date of decision: 07.04.2025

Mohammad Farman @ Farman Ali and another

..... Petitioners

VERSUS

State of Punjab and others

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. S.K. Chaudhary, Advocate, for the petitioners.

Mr. R.S. Thind, DAG, Punjab.

KIRTI SINGH, J. (Oral)

Apprehending arrest, the petitioner has filed this petition under Section 482 of Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) for grant of anticipatory bail in case FIR No.47 dated 13.08.2024, under Section 137(2) & 87 of BNS, 2023, registered at Police Station Purana Shalla, District Gurdaspur.

2. This Court while issuing notice of motion passed the following order:-

'CRM-46499-2024

Allowed as prayed for.

Amended memo of parties is taken on record, subject to all just exceptions.

Registry to tag the same at the appropriate place.

CRM stands disposed of.

Main case

The instant first petition has been filed under Section 482 of Bhartiya Nagarik Suraksha Sanhita, 2023 seeking anticipatory bail in case FIR No.47 dated 13.08.2024, under

Sections 137(2), 87 of BNS, registered at Police Station Purana Shalla, District Gurdaspur (Annexure P1).

Learned counsel for the petitioners contends that no such occurrence took place regarding which, the FIR was registered. As per the FIR, on the intervening night of 04/05.08.2024 at about 12:30 P.M., the minor prosecutrix-respondent No.3 was kidnapped on the pretext of solemnizing her marriage with petitioner No.1. It is specifically contended that the minor prosecutrix is residing with her mother namely Fatma Bibi.

Notice of motion.

Mr. Davinder Bir Singh, Sr. DAG, Punjab, accepts notice on behalf of respondent-State and on instructions from ASI-Daljit Singh he has refuted the aforesaid contention of the petitioners. He seeks a short accommodation to file response.

Mr. G.S. Bhinder, Advocate, accepts notice on behalf of respondents No.2 and 3 and files memo of appearance, which is taken on record.

Adjourned to 10.12.2024.

In the meantime, the statement of the prosecutrix-respondent No.3 be got recorded before the Area Magistrate (if she is recovered).

‘Vakalatnama’ on behalf of respondents No.2 and 3 be also filed in the Registry.

3. Thereafter, vide order dated 12.03.2025, directions were given to the trial Court to record the statement of the prosecutrix and forward the same to this Court before the next date of hearing. Accordingly, due compliance was made and the statement of the prosecutrix was recorded on 06.03.2025 before the JMIC, Gurdaspur, which has been forwarded to this Court vide letter dated 02.04.2025. The statement of the prosecutrix is reproduced as under:-

‘Stated that false FIR has been registered against the accused, namely Mohammad Farman @ Farman Ali and Sher Ali son of Murid Ali, both resident of village Baheri Bazurag, Post Officer Ferojpur Kalan, Tehsil and District Pathankot.

Both accused never threaten me nor kidnapped me. I was gone to the house of my uncle at Jammu & Kashmir. The accused does not committed any wrong with me. Accused are innocent or they have been falsely implicated by my parents. I am residing with my mother.'

4. It is the submission of the learned counsel for the petitioners that the petitioners have been falsely implicated in the present case and there is no evidence to indicate towards the complicity of the petitioners; and the prosecutrix is presently in the custody of her parents. Even in the statement made by the prosecutrix, no allegation has been leveled against the petitioners. Further, it is submitted that the petitioners are persons of clean antecedents and have no other case registered against them.

5. In view of the foregoing discussion, the present petition is allowed.

6. This order should not be treated as "blanket" order. It will not be read granting the petitioner(s) indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

7. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency to investigate into the charges against the petitioner(s).

8. The accused-petitioner(s) 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 or her from disclosing such facts to the Court or to any police officer.

9. The accused-petitioner(s) shall not leave India without prior permission of the Court.

10. The accused-petitioner(s) shall join the investigation as and when called by the police.

11. It will be open to the police or the investigating agency to move to this Court for a direction under Section 483(3) of BNSS, 2023 (erstwhile Section 439(2) of Cr.P.C.) to arrest the accused-petitioner(s), in the event of violation of any term, such as absconding, non-cooperating during

investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

07.04.2025
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No