

In the Court of Mrs. Anjana, Additional Sessions Judge,
Moga.

BA No.321 dated 09.09.2020
CIS No.BA/1712/2020
CNR No.PBMO01003629-2020
Date of Decision: 16.09.2020

State of Punjab

Versus

Manpreet Singh son of Jagsir Singh resident of village Malke, Tehsil
Baghapurana, District Moga.

...Accused/Applicant

FIR No.20 dated 09.03.2020
Under sections 363, 366-A IPC
P.S. Samalsar.

(Bail application u/s.438 Cr.P.C.)

Present: Sh. P.S. Sangha Advocate, for applicant/accused
Mrs. Gunwantjit Manesh, Addl.P.P. for the State
(Through Video Conference).

ORDER

1. Virtual Court room has been set up through Vidyo application. Learned Addl. PP is online from her office. The present bail application put up before me being Duty Officer. Virtually court room set up through Video App. Learned Addl.PP for State is online from her office. This order of mine shall dispose of the bail application filed by the above referred applicant under section 438 Cr.P.C. in a case bearing FIR No.20 dated 09.03.2020 Under sections 363, 366-A IPC, P.S. Samalsar.

2. In pursuance of the notice of the bail application having been issued, learned Addl.P.P. for the State Mrs. Gunwantjit Manesh has put in appearance through video conferencing. IO is present through Video Conferencing while sitting in police station. Relevant record perused through Video Conferencing.

3. The learned counsel for the applicant/accused has vehemently argued that no offence is made out against the accused/applicant under

section 363,366-A of IPC. The real facts are that the applicant-accused and daughter of the complainant (**name of the minor victim withheld**) having love affair, they wanted to marry with each other but the complainant and his family members were opposed the same and due to the said reason, the complainant had got registered the false FIR against the applicant-accused. Thereafter, daughter of the complainant/victim had solemnized the marriage with each other on 30.08.2020 and after the marriage, they filed a protection petition before the learned Sessions Judge, Moga and the same was allowed by this Hon'ble Court vide order dated 01.09.2020. It is pertinent to mention here that the said victim has also executed an affidavit in which she specifically stated the said FIR was got registered by her father on the basis of false allegations against the accused Manpreet Singh whereas Manpreet Singh did not commit any such offence and she ran away from the house with her own wishes. It is also pertinent to mention here that said Kuldeep Kaur is major and has attained the age of majority. The victim and accused-applicant have already solemnized the marriage with each other and nothing is to be recovered from the applicant-accused and as such, he is not needed for any custodial interrogation. Accused/applicant is ready to join the investigation as and when required by the police. The applicant/accused is ready to abide by all the terms and conditions if imposed by the court. Lastly, prayer has been made that the application for anticipatory bail may be allowed.

4. On the other hand, learned Addl.P.P. for the State vehemently opposed the contentions raised by the learned counsel for accused/applicant and argued that there are specific allegations against the accused/applicant. Thus due to gravity and seriousness of offence, present accused/applicant does not deserve the concession of anticipatory bail. Lastly, prayer has been made for dismissal of bail application.

5. After giving my careful and thoughtful consideration to the rival contentions and on careful perusal of averments of application, contents of FIR coupled with the duly assistance rendered, the Court is of the considered view that present bail application merits dismissal. Perusal of FIR reveals that present case was registered on the statement of complainant on the allegations that applicant-accused Manpreet Singh in

has enticed away his minor daughter with an intention to marry with her. ASI Gurcharan Singh appeared through Video Conference and suffered a statement that as per record, the victim is minor girl aged about 17 years and nine months. Applicant-accused has enticed away the minor daughter of the complainant and recovery of the victim is yet to be effected.

6. From the perusal of FIR, it reveals that the present accused/applicant in connivance with co-accused has abducted the minor prosecutrix from the lawful guardianship of her parents and recovery of the victim is yet to be effected. Although, learned counsel for applicant has placed on record the copy of order of protection petition dated 01.09.2020 passed by this Court as Annexure P1 alongwith affidavit executed by prosecutrix as Annexure P-2 alleging that she is a major and aged about 18 years and had solemnized the marriage with applicant/accused with her sweet will and without any pressure but perusal of record, it shows that date of birth of prosecutrix as 04.06.2002 and as per contents of FIR, the prosecutrix was abducted from the lawful guardianship of her parents on 07.03.2020 and present FIR was registered on 09.03.2020 and thus, thereby, the prosecutrix was minor at the time of commission of offence. Therefore, keeping in view the gravity and seriousness of offence coupled with the fact that victim was minor at the time of occurrence, present applicant does not deserve the concession of anticipatory bail at this stage. The accused/applicant has been specifically named in the FIR. Therefore, this court is the considered opinion that for facilitating thorough and fair investigation, custodial interrogation of accused/applicant is very much required. Thus after taking totality of facts of the present case taken into consideration coupled with the ratio decidendi laid down by the Constitution Bench of the Hon'ble Apex Court in case **Gurbax Singh Sibbia Versus State of Punjab 1980 (2) Supreme Court Cases 565** wherein it has been made abundantly clear that while deciding an application under section 438 Cr.P.C., the Court has to strike balance between the liberty of citizen and interest of general public at large. The provisions of section 438 Cr.P.C. are intended to protect the people from the process, which may suggest abuse of law but certainly not intended to benefit the people, who has much to explain of the FIR, which prima facie is in conflict with law. Thus, in order to

facilitate thorough and fair investigation, the court does not find it a fit case for according concession of anticipatory bail. Hence the present bail application being bereft of any substance is hereby dismissed. File of bail application be consigned to record room.

Pronounced;
Dated: 16.09.2020
(Sunny Stenographer II)

(Anjana)
Additional Sessions Judge,
Moga. ***(UID No.PB-0448)***

Present: Sh. PS Sangha Advocate, for applicant/accused
Mrs. Gunwantjit Manesh, Addl.P.P. for the State

ASI Gurcharan Singh got recorded his separate statement through VC. Relevant record perused through Video Conferencing. Arguments heard. Vide my separate order of even date, the present bail application stand dismissed, for the reasons as indicated therein. File of bail application be consigned to record room.

Pronounced;
Dated: 16.09.2020
(Sunny Stenographer II)

(Anjana)
Additional Sessions Judge,
Moga. (***UID No.PB-0448***)