

(2021) 06 P&H CK 0001

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 14201 Of 2021, : Criminal Writ Petition No. 1159 Of 2021

Jaswinder Singh @ Kaka And Others

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 04-06-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 164, 438, 438(2)
Indian Penal Code, 1860 — Section 14, 363, 366A, 376
Protection Of Children From Sexual Offences Act, 2012 — Section 4

Citation : (2021) 06 P&H CK 0001

Hon'ble Judges : Arvind Singh Sangwan, J

Bench : Single Bench

Advocate : Jasvir Singh Dhaliwal, Brahmeet Singh, L. S. Sidhu, Joginder Pal Ratra

Judgement

Arvind Singh Sangwan, J

This common order shall dispose of above noted two petitions. CRM-M-14201-2021 Prayer in this petition, filed under Section 438 of the Code of

Criminal Procedure, is for grant of anticipatory bail to petitioner Jaswinder Singh @ Kaka in FIR No. 14 dated 23.01.2021, registered under Sections 1

of 4 363, 366-A of the IPC (Section 376 IPC and Section of the POCSO Act added later on) at Police Station Sadar Ferozepur, District Ferozepur.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of complainant Avtar Singh, his minor daughter

(name withheld) was kidnapped by Parbhjit Singh Pabbha, son of petitioner Jaswinder Singh @ Kaka. It is further submitted that parties are closely

related to each other as wife of the present petitioner, namely Shinderpal Kaur, is real sister of complainant Avtar Singh.

Learned counsel for the petitioner further submits that on the statement of complainant Avtar Singh the present FIR was initially registered under

Sections 363, 366-A of the IPC and later on when the girl was found to be 16 years of age, Section 376 IPC and Section 4 of the POCSO Act were also added.

Learned counsel further submits that petitioner had no role in the incident except that he is father of main accused Parbhjit Singh @ Pabbha, who has unfortunately died on 13.05.2021 and, therefore, there are no allegations against the petitioner.

Learned counsel further submits that in the meantime, Parbhjit Singh @ Pabbha had filed CRWP-959-2021 before this Court along with the victim for

seeking protection to their life and liberty and complainant Avtar Singh has also filed CRWP-1159-2021, in which, while issuing notice of motion, SHO,

Police Station Sadar Ferozepur, District Ferozepur was directed to produce the detenue before this Court through video conferencing. During the

proceedings in the said petition, the victim was produced before a Mediator for recording her statement, in which she has 2 of 4 stated that she left her

parental home on 15.01.2021 with Parbhjit Singh @ Pabbha, who is her Bua's son (cousin) and both of them when to Chintpurni where they stayed for

4-5 days and then they left for Gujarat and returned after ten days.

Learned counsel further submits that in the said petition, the victim/detenue has not raised any allegation against the petitioner, rather she has stated

that she does not want to go back to her parents and wish to stay in Gurudwara.

It is further submitted that thereafter, vide order dated 26.02.2021 passed in CRWP-1159-2021, the victim was sent to Gandhi Vanita Ashram,

Jalandhar. It was also directed that her statement under Section 164 Cr.P.C. be recorded and if she gives her consent, her MLR be also conducted.

Learned State counsel has not disputed that Parbhjit Singh @ Pabbha has died on 13.05.2021 and the victim, in her statement recorded under Section

164 Cr.P.C., has not levelled any allegation against the petitioner and has stated that she had voluntarily left her parental home with Parbhjit Singh @

Pabbha.

Learned State counsel submits that at present, the victim is in the custody of her father Avtar Singh, who is complainant in the present case.

In pursuance to order dated 03.06.2021, the Registry has tagged and put up the

case file of CRWP-1159-2021 along with the present case with an advance notice to counsel representing Avtar Singh in the said case.

Mr. Brahmeet Singh, Advocate, who is appearing on behalf of Mr. L. S. Sihdu, Advocate for the petitioner in CRWP-1159-2021, has not 3 of 4

disputed the factual position that Parbhjit Singh @ Pabbha has died and the victim is in the custody of her father Avtar Singh.

Learned State counsel has also brought to the notice of this Court that wife of the petitioner, namely Shinderpal Kaur @ Baljinder Kaur, has already

been granted concession of anticipatory bail by the Court of Sessions, vide order dated 09.03.2021 (Annexure P-3).

After hearing learned counsel for the parties, without commenting upon the merits of the case, considering the aforesaid facts and circumstances of

the case, the present petition is allowed. Petitioner Jaswinder Singh @ Kaka is granted concession of anticipatory bail, subject to conditions envisaged

under Section 438(2) Cr.P.C.

However, it will be open for the Investigating Officer to call upon the petitioner to join investigation, if so required, by issuing him a written notice in

this regard.

CRWP-1159-2021 The present petition is fixed for 20.08.2021, however, keeping in view the facts and circumstances noticed above, the same is

preponed for today and dismissed as infructuous as the detenue is admittedly residing with her father i.e. petitioner Avtar Singh.

A photocopy of this order be placed on the file of other connected case.