
(2021) 03 P&H CK 0215

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 38266 Of 2020

Mela Nath @ Mela Singh

APPELLANT

Vs

State Of Punjab

RESPONDENT

Date of Decision : 16-03-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 164, 438, 438(2)
Indian Penal Code, 1860 — Section 363, 366A

Citation : (2021) 03 P&H CK 0215

Hon'ble Judges : Raj Mohan Singh, J

Bench : Single Bench

Advocate : K.S. Hissowal, Amar Ashok Pathak

Final Decision : Allowed

Judgement

Raj Mohan Singh, J

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of anticipatory bail under Section 438 Cr.P.C. in case bearing FIR No.154 dated 13.10.2020 under Sections 363, 366-A IPC registered at Police Station City Jagraon, District Ludhiana.

Notice of motion was issued on 19.11.2020. Thereafter, on 27.11.2020, following order was passed:-

"Through Video Conferencing

CRWP-8434-2020

In the present case, one Nisha has filed a CRWP No.8434 of 2020, seeking protection at the hands of the parents of the petitioner on the ground that she is a minor and less than 16 years of age but she want to marry a boy of her own choice but her parents are forcing her to marry somewhere else. Notice in the aforesaid criminal writ petition was issued for today.

Thereafter, one Mela Nath @ Mela Singh has filed criminal miscellaneous petition No. 38266 of 2020, seeking anticipatory bail on the ground that he is in love with the aforesaid girl Nisha and both of them are living together and apprehending the arrest at the hands of the police. Notice in the aforesaid criminal miscellaneous petition was issued and the learned State counsel has stated on instructions that the girl is still residing with the petitioner and she has not even permitted to get her statement recorded under Section 164 of Cr.P.C., which is very essential.

Although, no reply has been filed either in the criminal writ petition or in the anticipatory bail petition but learned State counsel has stated that the girl is a minor who is less than 16 years of age and it is a case where she is kept by the petitioner in an illegal manner. He further submitted that both petitioner and the girl are not of a marriageable age and it is rather the wish of the girl which has to be seen and for that purpose her statement under Section 164 of Cr.P.C. before the Magistrate is very much essential.

Learned counsel for the petitioner has submitted that the petitioner shall produce the girl before the police along with himself on 01.12.2020 and that he does not have any objection in case, the girl gets her statement recorded under Section 164 of Cr.P.C. before the Magistrate, voluntarily. He has further prayed for grant of interim protection in the meanwhile so that he may assist the investigation process. He has further submitted that he has no objection in case it is required then the girl being a minor can be sent to Nari Niketan at Jalandhar, subject to the outcome of the statement under Section 164 of Cr.P.C.

In view of the above, it is directed that the Senior Superintendent of Police, Ferozepur, shall constitute a team headed by women police official to look into the matter and in case the petitioner and the aforesaid girl visit the police station on 01.12.2020, as per their own undertaking, then the said police team headed by women police official shall further proceed with the matter and the statement of the girl namely, Nisha be recorded before the Magistrate. Meanwhile, till the next date of hearing, the girl shall be kept at Gandhi Vinita Asharam (Nari Niketan) at Jalandhar and a status report shall also be filed by the police on or before the next date of hearing. Till the next date of hearing, no coercive steps shall be taken against the petitioner or the minor girl Nisha.

Adjourned to 17.12.2020.

Copy of this order be given to learned counsel for the parties under the signatures of the Court Secretary of this court.

Photocopy of this order be placed on the connected case file.

(JASGURPREET SINGH PURI)

JUDGE"

November 27, 2020

Manpreet

Statement of the alleged victim has been recorded under Section 164 Cr.P.C. wherein she has not alleged any incriminating allegation against the petitioner. The victim is about 16 years of age, whereas petitioner is about 17/18 years of age. The victim has been lodged in Nari Niketan, Jalandhar since 04.12.2020.

Learned State counsel submits that copy of statement of the victim recorded under Section 164 Cr.P.C. already sent in Whatsapp group be read towards compliance of order dated 18.02.2021 and this case be decided on merits.

In view of above, the petition is allowed. Petitioner is directed to appear before the SHO/Investigating Officer to join investigation on 20.03.2021 and in the event of his arrest, he shall be released on anticipatory bail on his furnishing adequate bail bonds/surety bonds to the satisfaction of SHO/Investigating

Agency subject to the following conditions as envisaged under Section 438(2) Cr.P.C:-

- i) that the petitioner shall make himself/herself available for interrogation before the Investigating Officer as and when required;
- ii) that the petitioner 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/her from disclosing such facts to the Court or to any police officer;
- iii) that the petitioner shall not leave the country, without prior permission of the Court and shall surrender his/her passport, if any.