
(2012) 02 P&H CK 0114

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Nos.M-34615 and 36073 of 2011

Prabjit Kaur @ Paramjeet Kaur and Santokh Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 08-02-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 164, 438, 438(2), 439
Penal Code, 1860 (IPC) — Section 366 , 376 , 379, 406 , 506

Citation : (2012) 02 P&H CK 0114

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Judgement

Mehinder Singh Sullar, J.—As identical points for determination are involved, therefore, I propose to decide the indicated applications for anticipatory and regular bail, arising out of the same case/FIR, by virtue of this common order in order to avoid the repetition.

2. The contour of the facts, culminating in the commencement, relevant for the limited purpose of deciding the core controversy, involved in the instant applications and emanating from the record, is that on 1.10.2011, Samandeep Kaur, daughter of Satinder Pal Singh, had left her house and was missing. Her husband-complainant Sarabjeet Singh searched for her, but in vain. On Criminal Misc. Nos.M-34615 & 36073 of 2011 -2- 10.10.2011, the complainant came to know that petitioner Rajbir Singh son of Santokh Singh, had enticed her away. On 10.10.2011, he reported the matter to the police. In the back ground of these allegations and in the wake of statement of the complainant, the present case was registered against the petitioners-accused, by way of FIR No.87 dated 10.10.2011 (Annexure P1), on accusation of having committed the offence punishable u/s 366 IPC only, by the police of Police Station Jhansa, District Kurukshetra in the manner depicted hereinbefore.

3. Aggrieved by the registration of the case, petitioners Prabjit Kaur @ Paramjeet Kaur & Santokh Singh, have preferred the application for anticipatory bail,

invoking the provisions of Section 438 Cr.PC., whereas their son Rajbir Singh petitioner filed the application for grant of regular bail, invoking the provisions of Section 439 Cr.PC.

4. Notices of the applications were issued to the State.

5. After hearing the learned counsel for the parties, going through the record with their valuable help and after deep consideration over the entire matter, to my mind, the present petitions deserve to be accepted in this context.

6. As is evident from the record, that originally, the complainant lodged the FIR against main accused Rajbir Singh that he had enticed away Samandeep Kaur and a criminal case u/s 366 IPC was registered. Petitioners Prabjit Kaur @ Paramjeet Kaur & Santokh Singh were neither named in the FIR, nor any overt act or role whatsoever was attributed to them. Subsequently, it was claimed by the prosecution that they have stolen the gold ornaments from the bag of Samandeep Kaur, whereas petitioner Rajbir Singh took her first to Amritsar and thereafter to Nanded (Maharashtra) in the train and had sexual intercourse with her. Thereafter, the offences punishable under sections 406, 506, 376 and 379 IPC were added.

7. It is not a matter of dispute that during the course of investigation, the victim and petitioner Rajbir Singh were found at Nanded (Maharashtra) and Criminal Misc. Nos.M-34615 & 36073 of 2011 -3- were brought back by the Haryana Police. Samandeep Kaur was stated to have made the following statement (Annexure P3) at Nanded :-

I, Samandeep Kaur state under full consciousness that I have come with Rajbir Singh with my own consent. My parents had married me against my consent. I am not at all happy with that marriage. Because my in-laws are very greedy and cheap kind of people. They beat me daily and harassed me. And were blackmailing me, due to which I have come on my own will to Rajbir Singh. And I do not want to go with my family and nor I want to meet them. I fear for my life from them. They will kill me and I am very happy with Rajbir Singh. There is no pressure of any kind on me. I have done everything with my consent. I do not want to go back. Kindly cooperate with me.

8. Not only that, Samandeep Kaur recorded her statement before JMIC Kurukshetra on 20.10.2011 u/s 164 Cr.PC, wherein, she has stated that main accused Rajbir Singh took her first to Amritsar and thereafter from Amritsar to Nanded in a train. Annexure P2 are the photographs of marriage of Samandeep Kaur with Rajbir Singh. The perusal of marriage photographs (Annexure P2) and statement (Annexure P3) would reveal that she herself had accompanied main accused Rajbir Singh firstly from her house to Amritsar and then from Amritsar to Nanded in a train, where they performed the marriage. There is not an iota of evidence against the parents of the main accused that they, in any manner, abetted the commission of indicated crime. They appear to have been named as accused, being the parents of main accused Rajbir Singh. If the prosecutrix had

herself accompanied Rajbir Singh from Amritsar to Nanded, in that eventuality, as to whether the provisions of indicated offences are attracted on the facts of the present case, would be the moot points to be decided during the course of trial by the trial Court. Moreover, petitioner Rajbir Singh was arrested in this case on 12.10.2011. Since then, he is in judicial custody. He is no longer required for further interrogation at this stage. There is no history of his previous involvement in any other criminal case. The conclusion of trial will naturally take a long time.

9. In the light of aforesaid reasons, taking into consideration the totality Criminal Misc. Nos.M-34615 & 36073 of 2011 -4- of the facts and circumstances, emanating from the record, as described here-inabove and without commenting further anything on merits, lest it may prejudice the case of either side during the course of the trial of the main case, the application for anticipatory bail and application for regular bail filed by the petitioners are hereby accepted in the obtaining circumstances of the case.

10. Consequently, it is directed that in the event of arrest of petitioners Prabjit Kaur alias Paramjit Kaur and Santokh Singh, the Arresting Officer would admit them to anticipatory bail on their furnishing adequate bail and surety bonds in the sum of Rs.20,000/- each with one surety in the like amount to his satisfaction. However, they are directed to join the investigation as and when required to do so, subject to the compliance of conditions contained in section 438(2) Cr.PC.

11. Sequelly, Rajbir Singh petitioner is ordered to be released on regular bail on his furnishing adequate bail and surety bonds to the satisfaction of CJM, Kurukshetra.