

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(224)

CRM-M-27365-2022

Date of decision:- 06.09.2022

Pardeep Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Kamaljit Singh Dhillon, Advocate for the petitioner.

Mr. Vipin Kumar Yadav, Addl. A.G., Punjab.

...

SUVIR SEHGAL, J. (Oral)

On 24.06.2022, this Court passed the following order:-

“The instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 praying for grant of anticipatory bail to the petitioner in case FIR No. 102 dated 14.05.2021 registered under Sections 363 and 366-A of the Indian Penal Code, 1860 at Police Station Rama Mandi, Police Commissionerate Jalandhar, District Jalandhar and Sections 3, 4, 5, 6 and 14 of the Protection of Children from Sexual Offences Act, 2012 and Section 506 of the IPC and Section 66-D and Section 67 of the Information Technology Act, 2000 has been added by way of amendment of charge during the trial.

Learned counsel for the petitioner inter alia submits that initially the FIR was registered for commission of offence under Section 363, 366-A on the complaint filed by the complainant that his daughter has been kidnapped in relation to marriage. He contends that the petitioner was arrested and was later on granted regular bail. A final report was filed and a charge was framed. Thereafter, the complainant is stated to have produced 05 video clips depicting sexual intercourse amongst the petitioner as well as the complainant as a result whereof the offences under the POCSO Act have also been added. He contends that the

petitioner had to apply for concession of anticipatory bail on account of modification of the charge and the same was rejected after noticing that the petitioner may influence the witness. He contends that the regular bail was granted to the petitioner on 23.06.2021 and that there is no allegation against the petitioner of having misuse the concession so granted. Further, the complainant or any of the witnesses have nowhere submitted any complaint that the petitioner ever tried to influence, pressurize or impeded the process of law by attempting to dissuade the witnesses from deposing against him. He further contends that a mere subsequent alteration of the charge would not ipso facto necessitate custodial detention of the petitioner. He submits that in the absence of any abuse of concession of bail already granted to the petitioner cannot be effectively cancelled in this manner. It is further submitted that the additional evidence placed before the Court was always in the possession of the complainant and it is not that the petitioner availed of the benefit of concession of bail by concealing any fact. The said evidence is in the form of video clips has been produced later in point of time and the petitioner cannot be fastened any liability or consequences failure on the part of the prosecutrix-complainant to submit the evidence available against the petitioner. Further, no custodial interrogation of the petitioner is required for the purposes of any recovery.

Notice of motion.

Ms. Amarjit Kaur Khurana, DAG, Punjab appears and accepts notice on behalf of the respondent/State.

In the meantime, the petitioner shall appear before the trial Court within a period of one week from today and upon the petitioner so appearing, he shall be admitted to interim bail by the Court subject to its satisfaction.

List on 18.08.2022, for further consideration.”

Counsel for the petitioner has placed on record orders dated 30.06.2022 and 01.07.2022 passed by the Trial Court to submit that the petitioner has surrendered before the Trial Court in deference to the order passed by this Court and has furnished the bail bonds. Copies of the orders are taken on record.

In view of the above, but without commenting on the merits of the allegations levelled in the FIR, present petition is allowed.

Order dated 24.06.2022 granting interim bail to the petitioner, is made absolute, subject to conditions laid down in Section 438 (2) of the Code of Criminal Procedure.

06.09.2022
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No