

HIGH COURT OF PUNJAB AND HARYANA**Bench: Hon'ble Mr. Justice Deepak Gupta****Date of Decision: Pronounced on November 7, 2023**

CRM-M-48362 of 2023

Preeti Bansal **Petitioner****Vs****State of Punjab** **Respondent****Sections, Acts, Rules, and Articles Mentioned:**

1. Section 438 of the Criminal Procedure Code (Cr.P.C)
2. Section 384 of the Indian Penal Code (IPC)
3. Section 376B of the Indian Penal Code (IPC)
4. Section 406 of the Indian Penal Code (IPC)
5. Section 498-A of the Indian Penal Code (IPC)
6. Section 323 of the Indian Penal Code (IPC)
7. Section 41A of the Criminal Procedure Code (Cr.P.C) (Referred in context)
8. Section 420 of the Indian Penal Code (IPC) (Referred in context)

Subject of the Judgement: Grant of anticipatory bail in a case involving alleged abduction of children and demand for ransom.

Headnotes

Anticipatory Bail in Case of Child Custody Dispute - Petitioner granted anticipatory bail in FIR No.64 dated 08.08.2023 under Section 384 IPC for allegedly abducting her children and demanding money. The Court, considering the circumstances and without commenting on the merits of the case, directed the petitioner's release on bail if arrested, subject to bail bonds and compliance with Section 438(2) Cr.P.C. [Para 1, 12-13]

Child Abduction and Demand for Money Allegations - Petitioner accused of abducting children from husband and in-laws and demanding ₹1.25 crore for their return. Petitioner's re-marriage with ex-husband and custody disputes highlighted, with allegations of fraudulent child removal and monetary demands for their return. [Para 2, 5, 8, 10]

History of Marital Discord and Legal Actions - Petitioner's troubled marital history with Deepak Bansal, including divorce, custody battles, allegations of physical relations post-divorce, and remarriage detailed. Various legal actions, including FIRs and custody disputes, outlined. [Para 4, 6-7]

Court's Observations on Petitioner's Role and Rights - Court acknowledges petitioner's remarriage and consequent legal guardianship of children, questioning the abduction claim. Emphasizes the need for trial to address money demand allegations, noting the absence of such demands in past significant interactions. [Para 12]

Anticipatory Bail Granted - Court grants anticipatory bail, imposing conditions for petitioner's cooperation in investigation and adherence to legal requirements, ensuring her availability for investigative processes. [Para 13]

Referred Cases with Citations: None mentioned in the provided text.

Representing Advocates:

1. Mr. Naveen Bawa, Advocate for the petitioner.
2. Mr. Randeep Singh Khaira, DAG, Punjab.

3. Mr. Vishal Aggarwal, Advocate for the complainant.

CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: -Mr. Naveen Bawa, Advocate for the petitioner.

Mr. Randeep Singh Khaira, DAG, Punjab.

Mr. Vishal Aggarwal, Advocate for the complainant.

DEEPAK GUPTA, J.

By way of this petition filed under Section 438 Cr.P.C, petitioner has prayed for grant of anticipatory bail in case FIR No.64 dated 08.08.2023 registered under Section 384 IPC at Police Station Punjab Agriculture University (PAU), District Ludhiana.

2. Petitioner is alleged to have abducted her two children Moulik and Khushi from the custody of her husband and the parents-in-law on 03.10.2022. She along with her family is also alleged to be demanding money from the complainant i.e., her husband and father-in-law for handing over back the children.
3. Status report on behalf of the respondent- State along with the inquiry report has been filed.
4. As it emerges on perusal of the entire paper book, marriage of petitioner – Preeti Bansal was performed with Deepak Bansal in the year 2013. Son Moulik was born in 2014. Daughter Khushi was born in 2018. Petition for divorce by mutual consent was filed on 25.04.2018 and the husband Deepak took the custody of son Moulik, whereas petitioner – wife Preeti kept the daughter Khushi, who was four months old at that time. Decree of divorce by way of mutual consent was passed on 30.10.2018. Deepak Bansal instituted civil proceedings for custody of both the children and as per order dated 24.09.2020 passed by the Court, custody of both the children went to him. In April, 2021, petitioner – Preeti started working in Ludhiana and living in a rented accommodation. She was transferred to Jaipur in July, 2021. On

03.08.2021, she lodged an FIR under Section 376B IPC against the husband Deepak Bansal, alleging that despite divorce, said Deepak was making physical relations with her on the pretext of remarriage. In August, 2021, petitioner and Deepak re-married and started living together in Ludhiana and the FIR (registered on 03.08.2021 under Section 376B IPC) was got cancelled. The couple stayed together for 3-4 months but again separated. Petitioner- Preeti went to her parental place. On 16.09.2022, Deepak went abroad.

5. It is alleged that petitioner Preeti came to Ludhiana and demanded expenses. It is further alleged that on 03.10.2022, she came to Ludhiana in the matrimonial home on the pretext of meeting the children and fraudulently took away both the children i.e., Moulik and Khushi. It is further alleged that petitioner along with her father and other family members started demanding ₹1.25 crore for handing over the custody of the children. On 26.10.2022, complaint was made by Deepak Bansal to take action against the petitioner and her other family members. On 09.11.2022, Page No.2 out of 6 pages petitioner lodged FIR No.269 under Sections 406, 498-A, 323 IPC at Jaipur. Another complaint on 14.03.2023 was made by Shri Tarsem Lal Jain, the father of Deepak Bansal to take action on the complaint earlier filed by his son. Both these complaints were inquired into and after obtaining opinion of the District Attorney, present FIR was registered.
6. It is contended by learned counsel for the petitioner that present FIR is gross misuse of the process of law; that at the time of divorce by mutual consent, the custody of daughter Khushi had come to the petitioner but Deepak Bansal then started coming closer to the petitioner on the pretext of visiting rights of the petitioner with son Moulik and developed physical relations with her by giving assurance that they will perform re-marriage. It is because of the inducement made by Deepak Bansal that petitioner handed over the custody of minor daughter Khushi to him. However, Deepak Bansal started ignoring petitioner and went to America, leaving the children at the mercy of his parents. As and when petitioner contacted him for remarriage, he told that he will do so after coming back to India but asked the petitioner not to try to meet the children. Learned counsel further submits that after coming back, Deepak Bansal again started developing physical relations with petitioner on the pretext of re-marriage but then ignored her, compelling the petitioner to lodge FIR under Section 376B and 420 IPC against him. However, re-marriage was

then performed on 25.08.2021 and FIR under Section 376B/420 IPC was got cancelled.

7. Learned counsel further contends that till the cancellation of the afore said FIR, the relations between Deepak Bansal and his parents with petitioner were cordial but as soon as the cancellation report regarding that Page No.3 out of 6 pages FIR was filed, Deepak Bansal and his parents started committing atrocities upon the petitioner, forcing her to lodge FIR No.269 dated 09.11.2022 under Sections 406, 498-A/323 IPC.
8. Learned counsel contends that present FIR is nothing but a counter-blast to the afore-said FIR got registered by the petitioner against Deepak Bansal. In fact, both the children joined the company of the petitioner with their own consent. Learned counsel further contends that petitioner being the mother, has complete right over her children, particularly considering the fact that Deepak Bansal had left both the children at the mercy of grand parents in India, and he himself went abroad. 9. It is further contended on behalf of the petitioner that it is being alleged against her that she along with her family members demanded money to return the children. Learned counsel contends that had there been any semblance of truth in the said allegation, petitioner would have taken money at the time of obtaining mutual divorce or at the time of handing over the custody of daughter Khushi to her husband Deepak Bansal or at the time when FIR under Section 376B IPC was got cancelled but on none of those occasions, even a single penny was taken by the petitioner. Still further, it is contended that petitioner is ready to join the investigation and that there is no chance of her absconding and in all these circumstances, she be allowed bail.
10. Learned State Counsel, ably supported by counsel for the complainant, strongly opposed the petition. Attention is drawn towards the nature of allegations, to the effect that petitioner fraudulently took away the children from the lawful custody of the complainant and started demanding the money to hand over the custody. It is also submitted that there is a recorded conversation in this regard. It is submitted that custodial interrogation of the petitioner would be required and so, the bail petition be rejected.
11. I have considered submissions of both the sides and have appraised the record.
12. No doubt, that after the divorce by mutual consent amongst the petitioner and her husband on 30.10.2018, the custody of the daughter once came to the

petitioner and later on custody of both the children was handed over to the husband Deepak Bansal but it is not in dispute that petitioner had re-married with Deepak Bansal in August, 2021. Once it is so, the petitioner along with her husband became the lawful guardians of her children. Even if it be assumed that petitioner has taken away her children, it cannot be stated that she has abducted them. As far as the allegations of demanding money is concerned, it will be a matter of trial, particularly considering the contentions of the petitioner that had she demanded the money, she would have done so at the time of taking divorce by mutual consent or at the time of handing over the custody of the children or at the time of getting the FIR under Section 376B IPC cancelled.

13. Having regard to all the afore-said facts and circumstances, but without commenting anything on the merits of the case, this Court is inclined to grant anticipatory bail to the petitioner. Petition is accepted. It is directed that in case of her arrest, the petitioner shall be released on bail by the Investigating Officer subject to her furnishing bail bonds/ surety bonds to Page No.5 out of 6 pages the satisfaction of Investigating Officer. However, it is subject to the condition that the petitioner shall join the investigation as and when so required by the Investigating Officer. She shall further comply with the conditions stipulated in Section 438(2) Cr.P.C.
Disposed of

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