

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.36553-M of 2007

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Date of decision:31.5.2007

Bhagwanti Kaur and another

.....Petitioners

v.

State of Haryana

.....Respondent

....

Present: Mr. Inderjit Kaushal, Advocate for the petitioners.

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S.S. Saron, J. (Oral)

The petitioners seek pre-arrest bail in case FIR No.143 dated 24.4.2007 registered at Police Station Assandh, District Karnal for the offences under Sections 365 and 302 read with Section 34 IPC.

Initially on the basis of statement of Jagir Singh (complainant) DDR No.35 dated 22.4.2007 was recorded. It was stated by Jagir Singh (complainant) that on the said date i.e. 22.4.2007 at 7.00 p.m. his son Harpreet Singh aged three and half years was playing in the street and had not returned home. He had searched for him every where at his own level but he was not found anywhere in the village. It was prayed that his son may be searched and his life saved. He did not have any doubt against anybody. Thereafter, later on 22.4.2007 Jagir Singh, complainant stated that he had a doubt that some unknown or known person had abducted his son Harpreet Singh.

During investigation in the case on the basis of suspicion the

petitioners Bhagwanti Kaur and others were interrogated on 25.4.2007. On 26.4.2007, the dead body of Harpreet Singh was recovered from a pit. The same was even tied. The complainant suspected that the petitioners and Jasbir Singh and Mota Singh had murdered the child. Mota Singh in his disclosure statement stated that on 22.4.2007 he along with his son and Jasbir Singh and the petitioners had picked up the son of complainant Jagir Singh and thrown his dead body in the pit out of fear and they had escaped. The allegations against the accused are that the deceased had been sacrificed by them.

Learned counsel for the petitioners has submitted that the petitioners are not named in the FIR. Even in the remand that was applied on 5.5.2007 it was only mentioned that there is suspicion against the accused. Therefore, the petitioners are entitled to pre-arrest bail.

After giving my thoughtful consideration to the matter it may be noticed that the allegations against the petitioners are that they had sacrificed a boy aged three and half years. The mere fact that the petitioners are not named in the FIR is hardly of any consequence. Insofar as suspicion against the accused being made in the remand application submitted on 5.5.2007 it may be noticed that the remand of the petitioners was not sought and, therefore, their role has not been mentioned. It has come on record that Mota Singh made a disclosure statement on 22.4.2007 which shows the involvement of the petitioners. It is well known that considerations governing the Court's decision on an application seeking pre-arrest bail under Section 438 Cr.P.C. are materially different from that seeking post-arrest bail or for that matter even seeking suspension of sentence pending appeal before the higher Court. In a case of pre-arrest bail the advantage of

[3]

having custodial interrogation for eliciting more and useful information and material is always to be kept in view. The exercise of power to grant pre-arrest bail is somewhat extra-ordinary in nature. Keeping in view the facts and circumstances of the present case, no ground for pre-arrest bail is made out.

The criminal miscellaneous petition is dismissed.

May 31, 2007.

(S.S. Saron)
Judge

hsp