

Cr.M.P. (M) 31 of 2008.

21.1.2008 Present: Mr. N.K.Thakur, counsel for the petitioners.

Mr. J.K.Verma, Dy. AG, for the respondent.

The petitioners have approached this Court under Section 438 of the Code of Criminal Procedure with a prayer that in case they are arrested in connection with FIR 262 of 2007, dated 11.12.2007, registered under Sections 363, 376, 506 read with Section 34 IPC at Police Station, Haroli, Distt. Una, they may be released on bail forthwith as they are innocent and have not in any manner connected with the offences as alleged.

Notice of this application was issued to the respondent State.

I have heard learned counsel for the appellants and learned Deputy Advocate General for the State and have gone through the records. Without in any manner considering the relative merits of the case or the innocence of the petitioners, I am satisfied that the petitioners have been able to make out a prima facie case for grant of directions as prayed for. No recovery is to be effected from the petitioners. Learned Deputy Advocate General submits that the petitioner may not be admitted

to anticipatory bail as the offences alleged against them are serious, namely rape and kidnapping. This submission cannot be accepted, without any substantive evidence which is a matter of trial. The narration of facts itself shows that the prosecutrix is a married lady and has not approached the police promptly but has decided to wait for more than five months. In these circumstances, it is directed that in the event of arrest of the petitioners for offences under Sections 363, 376, 506 and 34 IPC, alleged against them in FIR No. 262 of 2007, they shall be released forthwith on their furnishing bail bonds to the extent of Rs.10,000/- each with one surety each in the like amount to the satisfaction of the arresting officer. In addition, the following directions are issued:

- i) that the petitioners will be present in the police station as and when ordered to do so by the investigating officer who shall inform them in writing;
- ii) They shall cooperate in the investigation and shall not tamper with the prosecution evidence nor terrorize the prosecution or any other witnesses;
- iii) They shall not abscond from the jurisdiction of the Sessions Judge, Sessions Division, Una;
- iv) They shall report to the police station on alternate days after 5 P.M. for which purpose their presence will be marked by

the investigating officer or any other officer present in the police station.

- v) It is clarified that in case of breach of any of these conditions, the bail bonds shall stand discharged and the petitioners shall be taken into custody forthwith without reference to Court.

Petition is disposed of accordingly.

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January 21, 2008 (PC). (Dev Darshan Sud), J.