

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-20493 of 2016

Date of decision : 07.06.2016

Sukhdev Singh

..... Petitioner

Versus

State of Haryana

... Respondent

CORAM:- HON'BLE MR. JUSTICE DARSHAN SINGH

1. *Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
2. *To be referred to the Reporters or not ? Yes*
3. *Whether the judgment should be reported in the Digest? Yes*

Present: Mr. Surinder Dagar, Advocate for petitioner.

Ms. Neelam Kashyap, DAG, Haryana.

DARSHAN SINGH, J.

The present petition has been preferred by petitioner Sukhdev Singh by invoking the provisions of Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.146 dated 16.05.2015 under Section 10 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the Act'), Police Station Sadar Tohana, Distt. Fatehabad.

2. As per the prosecution case, on 14.05.2016 in the evening, the prosecutrix along with her mother had gone to the clinic of the accused-

petitioner as she was having pain in her abdomen. The accused-petitioner took her alone inside and started doing indecent activities. He started pressing her breast and touching her private parts. He also attempted to commit bad act with her. She raised alarm. Her mother came inside. On these allegations, the present case has been registered against the petitioner. His application for grant of anticipatory bail has been dismissed by the learned Judge, Special Court, Fatehabad. Hence this application.

3. Initiating the arguments, learned counsel for the petitioner contended that the petitioner has been falsely implicated by the complainant and her family members. He contended that in fact on the next day, the accused-petitioner had accompanied the prosecutrix and her family members to Tohana for medical check up. If such occurrence would have taken place on 14.05.2016, there was no possibility of the prosecutrix and her family members accompanying the accused-petitioner on the next day to Tohana. He contended that the petitioner is a respectable person. He is ready to join the investigation and deserves the concession of anticipatory bail.

4. On the other hand, learned State counsel contended that the accused-petitioner had committed sexual assault on a minor girl on the pretext of her medical examination, so he does not deserve the concession of anticipatory bail.

5. I have duly considered the aforesaid contentions.

6. It is settled principle of law that anticipatory bail is an extraordinary privilege and can be granted in exceptional cases. The Hon'ble Apex Court in case *Jai Parkash Singh Vs. State of Bihar and another*

2012(2) RCR (Criminal) 251 has laid down that the anticipatory bail should not be granted as a matter of rule. The anticipatory bail being an extraordinary privilege should be granted only in exceptional cases. It can be granted where the Court is *prima facie* of the view that petitioners have been falsely enroled in the crime.

7. In the instant case, there are specific allegations against the petitioner that on the pretext of the medical examination, the accused had indulged in the sexual assault upon the complainant. Annexure P-1 is the OPD consultation chit of Cygnus Healthstreet City Hospital, Tohana, Distt. Fatehabad, which does not show that the petitioner had accompanied the prosecutrix to that hospital along with her family members. So, there is no material on record to support the plea raised by learned counsel for the petitioner that the petitioner had accompanied the prosecutrix and her family members to Tohana Hospital for her medical check up. As there are allegations against the petitioner of committing sexual assault on a minor girl, he does not deserve the extra ordinary privilege of anticipatory bail.

8. Thus, keeping in view my aforesaid discussion, the present petition being without any merits is hereby dismissed.

07.06.2016
sunil yadav

(DARSHAN SINGH)
JUDGE