

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

**CRM-M-34958-2017 (O&M)
Date of decision: 02.11.2017**

Nirmal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Davinder Pal Soni, Advocate,
for the petitioner.

JAISHREE THAKUR, J.

CRM-34637-2017

This is an application that has been filed seeking to place on record the application for summoning under Section 319 Cr.P.C. as Annexure P-5 and statement of Harbhajan Singh complainant as Annexure P-6.

The application is allowed.

Documents Annexure P-5 and P-6 are taken on the record.

CRM-M-34958-2017

This is a petition that has been filed by the petitioner for grant of anticipatory bail to him in case FIR No. 23 dated 24.03.2015 under Sections 376/363/366/506/34 IPC and Section 3/4 of POCSO Act, registered at Police Station City Malout, District Sri Muktsar Sahib.

The petitioner seeks anticipatory bail in the aforesaid FIR by submitting that the allegations levelled in the FIR are unsustainable qua him.

The FIR came to be registered at the behest of Harbhajan Singh complainant, stating that he has a daughter who is 14 years old and on 17.03.2015 at about 6.30 P.M. in the morning his daughter was kidnapped by one Kanwaljeet Singh who took her away on his motorcycle. It was also alleged that Kanwaljeet Singh had earlier issued threats to his daughter that in case she did not accompany him he would kidnap her.

Learned counsel for the petitioner contends that the petitioner has been named in the FIR after a gap of one year and ten months, on an application filed under Section 319 Cr.P.C. to summon the petitioner along with two other co-accused. It is argued that he has been summoned despite the fact that in the initial report under Section 173 Cr.P.C. he has been placed in column No.2 and, therefore, should be entitled to grant of anticipatory bail. He also argues that the petitioner is an Army Officer and not involved in the offence under Section 376 IPC, as alleged.

I have heard learned counsel for the petitioner and have also perused the pleadings.

Learned Addl. Sessions Judge, Sri Muktsar Sahib while taking into account the fact that the victim in the case was a minor girl and there are serious allegations made against the petitioner, dismissed the anticipatory bail application. It was also noted that the Juvenile Justice Board had summoned the petitioner as it had come in evidence on the statement of the complainant that the petitioner too was involved in the commission of an offence along with other in committing rape upon her. The plea that the petitioner was not present as, he being an Army Officer, was posted outside, was not sustainable on account of the fact that his

attendance register had not been produced and, therefore, could not be concluded that the applicant/ petitioner was not present. This Court does not find any infirmity in the order so passed by the learned Addl. Sessions Judge, Sri Muktsar Sahib. The offence of Section 376 IPC against a minor is an offence of a serious nature and at present moment petitioner is not entitled to discretionary relief of anticipatory bail.

Dismissed.

02.11.2017

Satyawan/Ansari

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes.
No.