

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

CRM-M No.9815 of 2017
Date of decision: 26th May, 2017

Sanjiv

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Harsh Chopra, Advocate for the petitioner.

Mr. Deepak Sabharwal, Addl. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J.

Allegations against the petitioner Sanjiv in this anticipatory bail application under Section 438 Cr.P.C. in case bearing FIR No.0435 dated 06.10.2016 under Section 377 IPC pertaining to Police Station Ballabhgarh Sadar, District Faridabad are that on 28.09.2016 complainant Jitender father of the victim, a minor boy aged around 15 years, lodged a complaint that his son came home late from tuition and later disclosed that the petitioner who happens to be his tuition master had enticed him and made him consume cold-drink and thereafter on the pretext of tantrik erudition committed sodomy and when the child protested, was threatened, leading to registration of the present case.

Contentions of learned counsel for the petitioner Mr. Harsh Chopra, Advocate are that the petitioner has been falsely implicated and

there is no medical evidence to corroborate the allegations and that the parties have effected compromise and prayed for grant of anticipatory bail.

Though learned State counsel Mr. Deepak Sabharwal, Addl. Advocate General, Haryana has sought to accept the factum of compromise having been effected and there being refusal on the part of victim to undergo medical examination but has stoutly opposed grant of relief on the ground of heinousness of offence and seriousness of the allegations.

Appreciating the submissions, no doubt the complainant has filed affidavit (Annexure P3) in favour of the petitioner, but the same is in itself suggestive of the enormous clout the petitioner wields and has forced the complainant to enter into a compromise. Claim of the State and learned counsel for the petitioner that there is no medical evidence, rather the record reflects that it was on the mere statement of the minor victim medical has not been conducted when there is no such consent of the guardian/father in case of such a serious allegations involving a minor which is punishable under the provisions of the Protection of Children from Sexual Offences Act, 2012 as well, rather is alarmingly reflective of total insensitivity and apathy of the doctor towards such a crime. The petitioner and the victim have a sacrosanct relationship of teacher and a student which the petitioner has belied. In this peculiar state of affairs before this Court, the Court is fully satisfied that if allowed the relief in

question the petitioner would circumvent due process of law even at the time of trial and thus, to discourage such machinations to thwart investigations and fair trial, impels this Court to decline bail wherein otherwise the petitioner is accused of a heinous crime against a child. More so, the provisions of Section 438 Cr.P.C. are to be sparingly used. Thus finding no merit the present petition stands dismissed.

(FATEH DEEP SINGH)
JUDGE

May 26, 2017
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No