

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

CRM-M- 10178 of 2018
Date of Decision:16.03.2018

Bhupinder Singh @ BhindaPetitioner

Vs.

State of PunjabRespondent

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr.Amit Arora, Advocate for the
petitioner.

LISA GILL J. (ORAL)

Petitioner seeks the concession of anticipatory bail in a case FIR No.20 dated 05.04.2016 under Sections 452/363/342/323/376/511/427/120-B/148/149 IPC (Sections 5, 6, 11 and 12 of Prevention of Children from Sexual Offences Act added later on), registered at Police Station Goindwal Sahib, District Tarn Taran.

It is contended that in the abovesaid FIR, six persons were named as accused. The petitioner along with his brother were arrested on 07.04.2016. Thereafter, a supplementary statement (Annexure P-2) of the victim was recorded on 08.05.2016 wherein it is stated that the abovesaid FIR has been registered due to certain misunderstanding between the parties. An application (Annexure P-3/A) was moved by the prosecutrix on 02.06.2016 for discharge of the present petitioner and his brother. The said application was rejected on 06.06.2016 (Annexure P-4) with the direction that further investigation be conducted. Learned counsel submits that further investigation was conducted but nothing was again found against the present petitioner and another application for discharge of all the accused from judicial custody was moved by the prosecutrix on 13.06.2016 (Annexure P-6). The said application was allowed by the learned SDJM, Tarn Taran on 13.06.2016

(Annexure P-7). A cancellation report was prepared by the Investigating Agency

(Annexure P-8). However, in the interregnum, an application dated 13.03.2017 was moved by the father of the prosecutrix stating that signatures of his daughter had been obtained forcibly on blank papers on the basis of which cancellation of the case was prepared. He prayed that action be taken against the accused. The matter was looked into by the DSP Investigation, Tarn Taran and it was directed that statement of the prosecutrix under Section 164 Cr.P.C. be recorded (Annexure P-9). Accordingly, the statement of the prosecutrix was recorded on 16.03.2017 (Annexure P-10) wherein she levelled allegations against all the accused persons. Investigation was thus started again in this matter.

Learned counsel for the petitioner submits that the falsity of the prosecution case is apparent from the sequence of events. The prosecutrix herself is giving discrepant statements at different points of time, therefore, no reliance can be placed on the same. It is further submitted that in the statement of the prosecutrix recorded under Section 164 Cr.P.C. on 16.03.2017, no allegation attracting the rigours of Section 376 IPC are alleged. In fact, there is not even an allegation of an attempt to rape. It is urged that even in the FIR, the allegation of attempt to rape are against the petitioner's brother. The present petitioner is alleged to have nabbed the prosecutrix at that relevant time to facilitate the co-accused in the commission of offence. Learned counsel for the petitioner also submits that the petitioner's brother has been afforded the concession of bail pending trial on 19.09.2017 in CrI. Misc. No.M-30649 of 2017. It is, thus, prayed that this petition be allowed.

I have heard learned counsel for the petitioner at length and have gone through the file.

It is not in dispute that the allegations were raised against the petitioner at the outset in the FIR which was registered on 05.04.2016. There is further no dispute that the petitioner was released from judicial custody on an

application by the prosecution on 13.06.2016 on the basis of the supplementary statement by the complainant.

However, this Court cannot lose sight of the fact that an application was thereafter moved by the father of the prosecutrix clearly stating that his daughter was forcibly made to sign on certain blank papers. Action was prayed for. It is to be noted that copy of the application dated 13.03.2017 has not been furnished before this Court, as it is stated that the same is not available with the petitioner. The prosecutrix in her statement under Section 164 Cr.P.C. raised specific allegations against the present petitioner as well. The co-accused i.e. petitioner's brother was afforded the concession of regular bail and not anticipatory bail. Therefore, the petitioner cannot claim any parity with him. The petitioner kept waiting in the sidelines and moved an application much later in February, 2018 for anticipatory bail before the learned Addl. Sessions Judge, Tarn Taran in the abovesaid FIR.

Keeping in view the peculiar facts and circumstances of the case, I do not find any ground to grant the concession of anticipatory bail to the petitioner.

Dismissed.

(LISA GILL)
JUDGE

16.03.2018

Anjal

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No