

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

Crl. Misc. M-43546 of 2018 (O&M)
Date of Decision: October 15, 2018

Sumer Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vishavdeep Singh Rana, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG Haryana.

Mr. Amit Kumar Jain, Advocate
for respondent No.2.

JAISHREE THAKUR, J. (Oral)

This is a petition that has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.20 dated 09.06.2018, under Sections 354-A, 376, 452, 506, 509 of Indian Penal Code read with Section 8 of POCSO Act, registered at Police Station Women Kaithal, District Kaithal, Haryana.

Learned counsel for the petitioner herein contends that the petitioner has been falsely implicated in the present case. It is argued that the FIR in question has been registered only because the daughter of the complainant was under depression, as the complainant was in consenting relationship with the petitioner and this fact was not acceptable to the

daughter of the complainant and it is under the pressure of her daughter, that the complainant got the present FIR registered. It is contended that on realizing their mistake, the complainant moved an application before the SP Kaithal and DGP for cancellation of the FIR. It is also argued that respondent No.2 has also sworn an affidavit stating therein that she does not want any penal action against the petitioner.

On the other hand, learned counsel appearing on behalf of respondent No.2 files an affidavit of respondent No.2, which is taken on record and endorses the arguments, so raised by learned counsel for the petitioner.

Per contra, learned counsel appearing on behalf of the respondent-State opposes the grant of anticipatory bail to the petitioner, while submitting that there are serious allegations that have been levelled against the petitioner in the FIR, coupled with the statements recorded of the complainant and her daughter under Section 164 Cr.P.C.

I have heard learned counsel for the parties and perused the record of the case.

As per the contents of the FIR, *inter alia* the petitioner herein, who is working as an Assistant Sub Inspector with the Haryana Police and already married, was in physical relationship with the complainant for the last 2 ½ years, while making false promise of marriage, due to which reason, the complainant was residing separately along with her two children from her husband. It is alleged by the complainant in the FIR that the petitioner, while crossing all limits, started teasing her daughter, aged 14 years and also threatened her. The complainant came to know about this

fact when her daughter disclosed her that the petitioner is a bad man and has done bad act with her and even touched her private parts. When the complainant raised the objection, then the petitioner asked the complainant to allow him to make physical relationship with her daughter. With the aforesaid allegations, the complainant requested for taking legal action against the petitioner, which resulted in registration of the present FIR.

After the registration of the FIR, a statement of the child victim was recorded under Section 164 Cr.P.C. besides the complainant. In her statement recorded under Section 164 Cr.P.C. the child victim made specific allegations against the petitioner with a threat of dire consequences should she reveal to anyone. In her statement under Section 164 Cr.P.C. the complainant too made the similar allegations.

The contention raised by learned counsel for the petitioner that he has been falsely implicated in the present case, by relying upon the affidavit furnished by the complainant and by placing reliance upon an application moved to the SP and DGP for cancellation of the FIR, cannot be looked at by this court at this stage, in view of the fact that the child victim has already suffered a statement under Section 164 Cr.P.C.

The grant of anticipatory bail is a discretionary relief. The conduct of the petitioner and gravity of the offence committed has to be seen as well. In view of the peculiar facts and circumstances of the present case and the gravity of the allegations levelled against the petitioner herein, this court is of the considered view that no ground is made out to grant the relief of anticipatory bail to the petitioner. Accordingly, the petition in hand is hereby dismissed, being devoid of any merits.

However, anything observed hereinabove shall have no affect on the merits of the case, which is only for the purpose of deciding the anticipatory bail application.

October 15, 2018

vijay saini

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No