

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

CRM-M-908-2019 (O&M)
Date of Decision:-25.1.2019

Gurmail Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. L.S.Sidhu, Advocate for the petitioner.

Ms. Simranjeet Kaur, AAG, Punjab.

Mr. Bikramjeet Singh Jatana, Advocate for the complainant.

GURVINDER SINGH GILL, J.

The petitioner Gurmail Singh seeks grant of anticipatory bail in a case registered against him vide FIR No.31 dated 22.4.2018 under Sections 377 and 506 of IPC and Sections 4 and 6 of POCSO Act at Police Station Boha, District Mansa.

The FIR was lodged at the instance of Veerpal Kaur (wife of petitioner) wherein it has been alleged that she was married to petitioner Gurmail Singh about 10-11 years back and a son namely Gursewak Singh, aged about 9 years, was born out of the wedlock. It is alleged that on 19.4.2018 at about 3 p.m., her husband Gurmail Singh made her son Gursewak Singh sit on a bicycle and took him to their fields known as “*Door Wala Khet*” in order to bring fodder for cattle. They returned back at about 5 p.m. It is alleged that on 21.4.2018, the complainant's son Gursewak

Singh told her that on 19.4.2018, his father had taken him to a room constructed in the fields of Binder Singh and had given him beatings and taken off his shorts and had inserted his sex organ into his mouth and had also forcibly committed unnatural sex with him, due to which his son had anal bleeding. It is alleged that the petitioner, however, put Gursewak Singh under fear and told him to keep silent and Gursewak Singh, being a child and being scared did not reveal about the incident earlier and it was now when he was feeling intense anal pain that he disclosed about the incident to the complainant. The complainant, thereafter, without informing her husband left the house of her husband and went to her parental home.

The learned counsel for the petitioner has submitted that in fact it is a case of matrimonial discord and he has falsely been implicated simply in order to pressurize him. The learned counsel has further submitted that the falsity of the allegations would be evident from the fact that the complainant at the time of approaching the Civil Court in the year 2017 seeking maintenance had disclosed her address to be of Mansa and wherein she had stated that she having been turned out of her matrimonial home was residing at her parental home in Mansa. The learned counsel for the petitioner has further submitted that subsequently in another application (Annexure P-5) filed by her seeking maintenance, she in order to cover up the aforesaid contradiction regarding her residence i.e. while in the earlier maintenance application, she had stated that she was residing in her parental home but in the FIR lodged subsequently, she has stated that she was residing with her husband, she had stated that during the interregnum period

a compromise had been effected amongst the parties and she had started residing with her husband.

Opposing the petition, the learned State counsel has submitted that in view of seriousness of the allegations, there is no room for grant of anticipatory bail. It has further been submitted that in fact the doctor who had examined the victim had opined that possibility of unnatural sex cannot be ruled out

The rival submissions put forth before this Court have been considered. The contention of the petitioner that the FIR is virtually in contradiction with the pleadings put forth in the earlier application filed by the petitioner seeking maintenance inasmuch as place of residence is shown at different places, cannot be accepted since it is borne out from subsequent application (Annexure P-5) that during the pendency of the earlier maintenance application the petitioner, in order to escape from paying the maintenance, entered into a compromise and took the complainant with him but subsequently it was on account of the present incident of unnatural sex having been committed by the petitioner that the complainant again left her matrimonial home.

Having regard to the facts and circumstances and the nature of allegations and the fact that the seriousness of the allegations is compounded by the fact that the petitioner is none else but father of the victim, no special case for grant of anticipatory bail is made out.

The petition is sans merit and is hereby dismissed.

25.1.2019

kamal

(Gurvinder Singh Gill)
Judge