

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

CRM-M-10698-2019

Date of decision: April 02, 2019

Raj Kumar @ Laddi

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

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

Mr. Ramdeep Partap Singh, DAG, Punjab.

RAJ SHEKHAR ATTRI, J.

Through the instant petition preferred under Section 438 of Code of Criminal Procedure, petitioner has sought anticipatory bail in case bearing FIR No.217 dated 03.11.2018, under Sections 376 and 120-B of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Daresi, Ludhiana.

Victim is a orphan. She had been working as a maid in different houses since the age of eight. For the last about six months, she was working in the house of petitioner. She was subjected to sexual assault by the father of the petitioner as well as by the petitioner.

Father of the petitioner has already been arrested and he is in jail.

Serious allegations have been levelled against the petitioner with regard to committing rape upon the prosecutrix, who now lodged in the State Women Protection Home, Jalandhar.

The remedy of anticipatory bail is extraordinary one and should be used in exceptional cases. The Hon'ble Supreme Court in

Siddharam Satlingappa Mhetre vs. State of Maharashtra and others

2011 AIR (SC) 312 issued the following parameters for grant of anticipatory bail :-

“122. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail :

- i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*
- ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;*
- iii. The possibility of the applicant to flee from justice;*
- iv. The possibility of the accused's likelihood to repeat similar or the other offences.*
- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.*
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.*
- vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;*
- viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;*

ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

After going through the facts and circumstances of the case, this court is of the view that petitioner is not entitled to the concession of anticipatory bail.

Petition stands dismissed accordingly.

(RAJ SHEKHAR ATTRI)
JUDGE

April 02, 2019
m. sharma

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