

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-53878 of 2018 (O&M)
Date of decision : April 04, 2019

Gurmail Singh @ Gurmail @ Babbi

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Tarun Sharma, Advocate, for the petitioner
Mr. Avtar Singh Sandhu, Addl. AG Punjab for the State

Fateh Deep Singh, J. (Oral)

CRM-6014-2019

For the reasons mentioned, the application is allowed.
Offences mentioned therein are ordered to be added in the heading and prayer clause of the main petition. Necessary note be given to this effect.

CRM-M-53878-2018

In this first anticipatory bail application under Section 438 Cr.P.C. by petitioner Gurmail Singh @ Gurmail @ Babbi filed in case FIR No. 131 dated 3.11.2016, under Sections 376/511 IPC and Sections 3/4 of the Protection of Children from Sexual Offences Act, 2012 and later on added Section 376-D IPC and Section 18 of the POCSO Act, Police Station

Kulgari, District Ferozepur, the facts are as follows:-

The present case was got registered by complainant Nasreen a married lady alleging that after securing divorce from her husband she was living at her parental house. The complainant claimed that her daughter aged around 15 years was a student of 10th class and on 2.11.2016 when her daughter and others were present in the house and she was returning from her daily labour work, at evening time, the accused non-applicant Jagga tress passed into their house and in an attempt to commit rape upon her daughter tore off her clothes. It is alleged that at that time accused-petitioner Gurmail Singh was standing outside the house near the main gate in the street and alarmed the accused and thereafter both accused managed to escape leading to the registration of the present case.

Mr. Tarun Sharma, counsel for the petitioner inter-alia argues that no specific role is attributed to the petitioner and there is only vague insinuations and nothing is to be recovered from him and his joining the investigations would suffice the purpose.

Learned State counsel has opposed the relief on the grounds that the accused-petitioner has actively connived and that in view of the allegations does not entitles him to any relief.

Going through the submissions, the own stand of the complainant that the accused was standing outside the house and no specific act was done or words uttered by him have been spelled out nor any allegation of sharing of common intention/criminal conspiracy have come

about and which is matter of evidence. Sending the petitioner behind the bars would be traversy of justice and nothing is to be recovered from him.

In view of the aforesaid, the present petition is allowed. In the event of arrest, the petitioner shall be released on interim bail to the satisfaction of arresting/investigating officer till submission of report under section 173 Cr.P.C. (challan). The petitioner shall, however, join the investigation as and when called for and shall also abide by the conditions specified under section 438 (2) Cr.P.C. Thereafter, on presentation of challan, the petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The present petition stands disposed of.

April 04, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No