

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

Crl. Misc. M-17033 of 2020
Date of decision: 27.10.2020

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Gurjant Singh

....Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate,
with Mr. Gagandeep Jammu, Advocate,
for the petitioner.

Mr. Harshdeep Singh Rana, DAG, Punjab.

(Proceedings are conducted through video
conferencing as per instructions).

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks anticipatory bail in a petition filed under Section 438 Cr.P.C. in FIR No. 27 dated 06.06.2020 (Annexure P-1) under Section 354-A IPC and Sections 8 and 12 of the POCSO Act, 2012, P.S. Block Majari, District SAS Nagar, Mohali.

On 30.06.2020, the following order was passed:-

“This is a petition under Section 438 of the Code of Criminal Procedure, 1973 (hereinafter referred to as ‘Cr.P.C.’) for grant of anticipatory bail to the petitioner in FIR No.27 dated 06.06.2020 under Section 354-A of the Indian Penal Code, 1860 and Sections 8 & 12 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Block Majari, District SAS Nagar.

It has been contended by learned counsel for the petitioner that the alleged incident is dated 29.05.2020

and FIR has been lodged on 06.06.2020 i.e. after a delay of seven days. It has further been contended that in the FIR itself, it has been stated that the minor girl had narrated the entire incident to her mother on 29.05.2020. However, her mother came with the minor girl only on 06.06.2020 to get the FIR lodged. In the FIR, the allegations are that the minor girl along with her friend Lovejot Kaur went to the temple to meet the petitioner. However, a CD has been placed on record by learned counsel for the petitioner as Annexure P-3, which contains a video footage from the video camera installed outside the temple, which shows that the minor girl had entered the temple alone and not with her friend as has been alleged in the statement of the minor girl and recorded in the FIR.

Notice of motion.

On the asking of the Court, Mr. Pawan Sharda, Sr. DAG, Punjab has put in appearance through video conferencing and accepts notice. He has stated that in the statement recorded under Section 164 of Cr.P.C., the minor girl has stated that there was an attempt to rape also in this case. He has further brought to the notice of the Court that though physical external medical examination of the minor girl was conducted, however, the mother refused for her detailed medical examination.

Adjourned to 20.08.2020.

Meanwhile, the petitioner shall join the investigation and would come present as and when called. The petitioner shall also handover his mobile phone to the Investigating Agency in which, it is alleged, the pictures of the victim supposed to have been clicked by the petitioner are saved. In the event of arrest, the petitioner shall be admitted to bail on furnishing adequate surety and personal bonds to the satisfaction of the Arresting Officer. The petitioner shall abide by all

terms and conditions as specified under Section 438(2) of Cr.P.C.”

Thereafter, on 20.08.2020, it was brought to the notice of the Court that the petitioner has joined investigation and is not required for custodial interrogation. Status report had been directed to be filed, which has come by way of affidavit of Bikramjeet Singh Brar, DSP, Sub Division Kharar-2 (Mullanpur), District SAS Nagar, Mohali. It has been mentioned that the statement of the prosecutrix was recorded under Section 164 Cr.P.C. and thereafter supplementary statement was recorded on 11.06.2020. The mobile phone of the petitioner has been sent to the State Cyber Crime Cell, District SAS Nagar and the report is still awaited. In the affidavit, it has further been averred that in view of the statement, offences under Sections 354, 354C, 506, 509 IPC were added. The internal medical of the victim as such was not done as the mother had refused to give the consent and there were no external injury marks seen on any part of the body. It has further been mentioned that the report under Section 173 Cr.P.C. has been presented in the Court on 10.07.2020.

Keeping in view the above facts and the nature of allegations as such, this Court is of the opinion that no useful purpose would be served by keeping the petitioner in custody since the allegations as such would be subject matter of trial on the basis of the evidence produced and the report received from the State Cyber Crime Cell. It has further been pleaded that the petitioner has neither been convicted in any other case earlier nor any FIR registered against him.

Keeping in view the antecedents of the petitioner as such, the

petition stands allowed by confirming the interim order dated 30.06.2020.

27.10.2020
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No