

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

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**CRM-M-22127-2020
Decided on : 21.08.2020**

Mannu @ Manish Chaudhary

... Petitioner

Versus

State of Haryana

... Respondent

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

Present: Mr.Manish Soni, Advocate, for the petitioner.

Mr.Anant Kataria, DAG, Haryana.

Mr.Akhilesh Vyas, Advocate, for the complainant.

(The proceedings are being conducted through video conferencing,
as per instructions.)

G.S. Sandhawalia, J. (Oral)

Present petition has been filed under Section 438 Cr.P.C., for grant of anticipatory bail in FIR No.285 dated 28.06.2020 registered under Sections 354-A, 354-D, 427, 34 IPC & Section 12 of Protection of Children from Sexual Offences Act, 2012 (for short, the 'POCSO Act') at Police Station City Palwal.

The FIR was lodged by the victim who is a student of 12th class, who stated that the petitioner was residing in the neighborhood and used to laugh on seeing her and followed her. Earlier also before the lodging of the complaint, the society persons had got the matter compromised between them. On 27.06.2020, when she along with her father came to her house after purchasing medicine, the petitioner who was standing outside, on seeing her started taunting and laughing. Her father opposed the said act of the petitioner and then the petitioner and his sister started hurling filthy abuses and their mother and father had also come and hurled abuses and broke items of the house.

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The anticipatory bail was dismissed by the Addl.Sessions Judge on 29.07.2020 on the ground that the petitioner was stalking the victim.

Counsel for the petitioner has raised the issue that the offence under Section 12 of POCSO Act was punishable upto 3 years and therefore, the offences were bailable, as per the classification of offences against the other laws provided under the Code of Criminal Procedure, in view of Section 31 of the POCSO Act. It was submitted that the petitioner was, thus, apprehending arrest at the hands of the police officials, inspite of the fact that the offence was bailable.

State Counsel and counsel for the complainant have put in appearance and filed affidavits. The statement of the victim and the complainant was also recorded under Section 164 Cr.P.C., before the JMIC Palwal. In the said statement, specific averment was made that petitioner had tried to molest her and touched her intentionally and also used to do porno talks and do illegal actions. He also used to call her a prostitute/whore and gave threat to kidnap her.

The provisions of Section 11 of the POCSO Act provides that if any word or gesture is exhibited or anybody exhibits any object or part of body and shows any object to a child for pornographic purposes which is seen by the child, the same would be punishable for offence of sexual harassment.

The classification under the Cr.P.C. also provides that bailable offences are those which are punishable with imprisonment for less than 3 years or with a fine only. Thus, for offences punishable for 3 years and upward, the offence would be classified as non-bailable. It is, in such

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circumstances, the petitioner is also seeking anticipatory bail as admittedly, he apprehends arrest and thus, invokes the provisions of Section 438 Cr.P.C. The argument of the counsel for the petitioner is thus without any basis.

In such circumstances, in view of the statement made by the victim before the JMIC, Palwal, this Court is of the opinion that benefit of anticipatory bail is not liable to be granted to the petitioner as the victim is only 17 years of age. She is a student of 12th class and has been harassed and stalked, not only leading to psychological trauma to the victim but also to her family. In such circumstances, no case is made out for anticipatory bail and the present petition is, accordingly, dismissed.

**(G.S. SANDHAWALIA)
JUDGE**

AUGUST 21, 2020
sailesh

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No