

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

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**CRM-M-19297-2021
Date of decision: 11.05.2021**

Pankaj**... Petitioner****Versus****State of Haryana****... Respondent****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Rohit Choudhary, Advocate for the petitioner.

Mr. Sandeep Moudgil, Additional Advocate General, Haryana.

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SUVIR SEHGAL, J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Vide the instant petition filed under Section 438 of the Code of Criminal Procedure, 1973, the petitioner is seeking grant of anticipatory bail in case FIR No.12 dated 05.01.2021 registered for offence under Sections 354 & 323 of the Indian Penal Code, 1860 and Section 8 of Protection of Children from Sexual Offence Act, 2012 (for short "POCSO Act") and Section 75/79 of Juvenile Justice (Care and Protection of Children) Act, 2015 (Annexure P-1) at Police Station Model Town Panipat, District Panipat.

As per the version of the prosecution, FIR (Annexure P-1) has been registered on the basis of a complaint received from the Child Welfare Committee, Panipat, wherein it has been alleged that the complainant/prosecutrix had been working in the house of Pooja Verma for

the last 1½ years and was taking care of her infant and doing odd jobs. Whenever Pooja Verma went to her parental house at Jalandhar, she took her child as well as the complainant along. On one such previous occasion, when she went to Jalandhar in October, 2020, the brother of the petitioner, namely, Pankaj (present petitioner) molested the complainant. When the complainant disclosed this fact to Pooja Verma, she threatened her and told her not to disclose the incident to anyone otherwise she will involve the complainant in a theft case. The complainant worked with Pooja Verma till 01.12.2020 and on 02.12.2020, Pooja Verma came to her house and beat her, which fact has been recorded by her in a video.

Counsel for the petitioner has contended that the petitioner has been falsely implicated in the FIR (Annexure P-1), which has been lodged under the influence of Pradeep, who is the estranged husband of Pooja Verma, sister of the petitioner. Counsel urges that Pradeep deserted Pooja Verma on 09.12.2018 and thereafter instituted a number of cases including the present one to harass and humiliate her and her family. Counsel has argued that there is a delay of more than three months in lodging of the FIR, which in itself is sufficient to show that the allegations are out and out false.

Opposing the petition, State counsel on instructions submits that the prosecutrix, who is a minor, has levelled serious allegations against the petitioner. Her statement under Section 164 Cr.P.C. is on the same lines as the allegation in the complaint. He submits that the matter is at the stage of investigation and the petition deserves to be rejected.

I have considered the respective submissions of counsel for the parties.

The argument of false implication at the behest of Pradeep, brother-in-law of the petitioner, who is a resident of Panipat, does not inspire any confidence as Pradeep had deserted Pooja Verma, sister of the petitioner in December, 2018, whereas the complainant had started working with Pooja Verma at Jalandhar around June, 2019, that is, about 1½ years before the lodging of the FIR (Annexure P-1).

The victim, a young girl of 13 years of age, has levelled specific and categoric allegations against the petitioner, which have been duly supported by her in her statement under Section 164 Cr.P.C. The presumption of guilt under Section 29 of POCSO Act unless it is rebutted, operates against the petitioner. The investigation is yet to be completed and concession of anticipatory bail cannot be extended to the petitioner as there is a possibility that the accused may try to influence the complainant.

Considering the nature of allegations, the gravity of offence, the stage of investigation and the fact that the complainant is a minor, no ground is made out for grant of pre-arrest bail to the petitioner.

Petition is accordingly dismissed.

It is clarified that nothing said hereinabove shall not be construed to be an expression of the merits of the case.

(SUVIR SEHGAL)
JUDGE

11.05.2021
Pardeep

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No