

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

CRM-M-21611-2021

Date of decision : 14.07.2021

Gurmeet Singh

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Arpandeeep Narula, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

RAJESH BHARDWAJ, J.

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Prayer in the present petition filed under Section 438 of the Code of Criminal Procedure is for grant of anticipatory bail to the petitioner in case FIR No.19 dated 19.03.2021, registered under Sections 376-D, 368, 506 and 34 of the Indian Penal Code and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 at Women Police Station Sirsa, District Sirsa.

The FIR in question has been placed on record as Annexure P-1. The victim (name withheld) has got registered the FIR wherein the allegations of rape against the petitioner namely, Gurmeet Singh at gunpoint have been alleged. It has been alleged in the FIR that the petitioner is the step-father of the victim and taking benefit of the plight

of the victim and her mother, he started blackmailing the victim and thereafter, repeatedly ravished the honour of the victim. It has been further alleged that the petitioner, Gurmeet Singh created Facebook ID and uploaded the photo of applicant and blackmailed the victim through that ID.

Having faced with such situation, the victim approached the Judicial Magistrate Ist Class, Sirsa and filed the complaint under Section 156(3) Cr.P.C. on the basis of which the present FIR was registered.

Learned counsel for the petitioner has vehemently contended that the present FIR is nothing but an abuse of the process of the Court. He has contended that the complainant is a habitual litigant and this is not the only FIR rather at number of occasions, she has filed the similar FIRs. He has appended the FIR No.144 dated 4th November, 2020 which is again under Section 376-D and 366-A IPC lodged by the victim against some other accused. He further argues that the occurrence in question has taken place in October, 2020 whereas the present FIR has been lodged after a delay of 04 months. The sum and substance of the arguments raised by counsel for the petitioner that no offence as alleged is made out against the petitioner and the present FIR is cock and bull story just in order to harass the petitioner.

On the other hand, Mr. Manish Bansal, DAG, Haryana appearing for the State has vehemently opposed the grant of anticipatory bail to the petitioner. He has vehemently submitted that the petitioner is a habitual offender as there are three more cases pending against him in which he is facing the trial. He has given the details of the FIRs as below:-

1. FIR No.76 dated 14.04.2019, under Section 25 of Arms Act, Police Station Ellenabad.
2. FIR No.44 dated 27.01.2020, under Sections 384, 388, 389 IPC, Police Station Ellenabad.
3. FIR No.449 dated 24.12.2020, under Sections 323, 452, 506/34 IPC, Police Station Ellenabad.

Learned State counsel has placed on record the status report filed by way of an affidavit of Aryan Chaudhary, HPS, Deputy Superintendent of Police, Head Quarters, Sirsa. He argued that the complainant is a minor who is hardly 16 years of age and the petitioner before this Court is the step-father of the victim. He has relied upon the status report filed by the police wherein the details of the investigation so far have been disclosed. It has further been argued that the petitioner along with the co-accused namely, Sabar Khan committed rape with the victim repeatedly. He has submitted that during investigation, statement of the victim under Section 164 Cr.P.C. was recorded wherein the victim has disclosed in detail the manner in which the petitioner and the co-accused committed rape repeatedly with the victim and kidnapped her brother and sister. He has further drawn my attention to the disclosure statement of the co-accused Sabar Khan wherein he has disclosed how the petitioner and Sabar Khan blackmailed the victim and ravished her honour. It has been further submitted that report under Section 173(2) Cr.P.C. has been prepared against the co-accused Sabar Khan and the same is ready to be filed in the Court. He has opposed the prayer made by the petitioner to grant him anticipatory bail.

I have heard both the counsel and perused the record.

The issue before this Court is the anticipatory bail prayed by the petitioner. There is no gainsaying that the offences for which the petitioner has been booked are the heinous offences. The victim is 16 years of age and that makes the offences more sensitive and serious. The FIR in question and the investigation carried so far leaves no doubt in the mind of this Court that *prima facie*, the petitioner has no case for the grant of anticipatory bail. The arguments raised by the counsel for the petitioner regarding the delay and the other FIR lodged by the victim have no place at the stage of consideration of the prayer for grant of anticipatory bail. The same are matters to be appreciated during the trial. This Court is to weigh the facts and circumstances of the present case on the anvil of the statutory provisions of Section 438 Cr.P.C. and the judicial precedents pronounced by the Hon'ble Apex Court in plethora of judgments. The case in hand belong to a grievous and heinous offence. Granting anticipatory bail to the petitioner who is none other than the step-father of the victim would definitely hamper the ongoing investigation and thus, the case in hand do not qualify to be considered for the grant of anticipatory bail. The custodial interrogation in such a case is necessary. Thus, this Court find no merit in the arguments raised by counsel for the petitioner and as a result, petition being devoid of any merit, is hereby, dismissed.

(RAJESH BHARDWAJ)
JUDGE

14.07.2021
m. sharma

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