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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32257-2021

Date of Decision: August 17, 2021

Saurabh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Vikram Singh,Advocate
for the petitioner.

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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.

Instant petition has been filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case FIR No.165, dated 10.03.2021, under Sections 363, 366A, 376C, 376DA IPC and Sections 6 and 17 of the Prevention of Children from Sexual Offences Act, 2012, registered at Police Station Sonipat City, District Sonapat.

The factual matrix of the case are that the present FIR was lodged by the victim (name withheld to protect her identity in view of Section 228 A IPC and as per the directions given by the Hon'ble Apex Court in case titled **State of Karnataka vs Puttaraja**, (2004) 1 Supreme Court Cases 475, and referred to as the prosecutrix). It has been alleged that the victim is 14 years of age and studying in 8th standard. She had alleged

that she was standing outside S.K.Misthan Bhandar, then Nikhil (co-

accused) and his friend Saurabh, i.e. the petitioner, whom she knew already, came to her. They took her on foot by alluring to one hotel, to which she can identify. She further alleged that after taking her in the room, Nikhil committed rape upon her without her consent and thus, prayed that action be taken against Nikhil and Saurabh. Thereafter the statement of the prosecutrix was also recorded under Section 164 Cr.P.C. and her medical was also conducted. The petitioner approached the Court of learned Additional Sessions Judge, Fast Track Court, Sonapat, for grant of anticipatory bail, who declined the same vide its order dated 02.08.2021. Aggrieved, he approached this Court by way of filing this present petition.

Learned counsel for the petitioner contends that no offence, as alleged, is made out against the petitioner as the only allegation against the petitioner is that he was simply named in the FIR whereas main allegations are against the co-accused Nikhil.

Issue notice of motion.

On the asking of the Court, Mr.B.S.Virk, Deputy Advocate General, Haryana, accepts notice and vehemently opposes the prayer made by the petitioner. He has submitted that co-accused Nikhil is already behind bars whereas the petitioner has been specifically named in the FIR and his complicity in the alleged offence is at par with the co-accused and thus, his custodial interrogation is necessary for free and fair investigation.

I have heard learned counsel for the parties and perused the record.

From the arguments advanced and perusal of the record, it is apparent that the petitioner has been charged with serious offence and alleged with the specific role played in committing the heinous offence.

Looking into the facts and circumstances of the present case, the Court finds that no case for grant of anticipatory bail is made out to the petitioner when the same is weighed on the anvil of parameters of Section 438 Cr.P.C. His custodial interrogation in this case would be required for free and fair investigation.

Hence, the petition being devoid of any merit, is hereby dismissed.

Nothing expressed herein would be deemed to have been expressed any opinion on the merits of the case.

August 17, 2021
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(RAJESH BHARDWAJ)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |