

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

CRM-M-34474-2021
Date of decision : 24.8.2021

Lakhan Bhatti

....Petitioner

versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rahul Kumar Adia, Advocate, for the petitioner.

Mr.M.S.Nagra, Assistant Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

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 is for grant of anticipatory bail to the petitioner in case FIR No.176 dated 11.11.2019 under Sections 363, 366-A IPC (Section 376 IPC added later on) and Sections 6 and 17 of the POCSO Act, 2012 registered at Police Station City Nawanshahar, District SBS Nagar.

FIR in the present case has been lodged by the mother of the prosecutrix, namely, Jaswinder Kaur. It has been alleged by the complainant that she has three children, one son Harsh, thereafter, victim Priya and daughter Simran. She alleged that the victim was to give private exams of Class 10+2 and her date of birth is 11.11.2002. The victim was playing outside the courtyard and when she checked, she found the victim missing and her documents regarding her date of birth and Adhar Card were also found missing. Later on, she came to know that Rajat Bhatti, who used to

work in GO Company, Nawanshahar had allured the victim on the pretext of marriage. She further alleged that she was searching her daughter but she could not be traced, hence, lodged the present FIR for taking legal action against the culprits.

On return of the victim, her statement under Section 164 Cr.P.C. was recorded, wherein she categorically levelled the allegation of rape against the petitioner and co-accused. The petitioner approached the learned Additional Sessions Judge for grant of anticipatory bail, however, the same was declined vide order dated 2.6.2020. Aggrieved of the same, the petitioner has filed the present petition.

Learned counsel for the petitioner has contended that the petitioner is totally innocent and falsely implicated in the present FIR. He has submitted that Rajat Bhatti, who is the brother of the petitioner and daughter of the complainant filed CWP-33472-2019 in this Court for seeking protection of life and liberty. He further contended that the Rajat Bhatti and the victim are legally wedded husband and wife. He vehemently contends that no case for his custodial interrogation is made out, thus, he should be granted anticipatory bail.

Learned State counsel vehemently opposes the contentions of learned counsel for the petitioner and contends that the case in hand is of serious nature and custodial interrogation of the petitioner is required.

I have heard learned counsel for the parties.

It is apparent from the record that after recovery of the victim her statement under Section 164 Cr.P.C. was recorded, wherein she has categorically named the petitioner alongwith the other accused, who raped her. Admittedly, the prosecutrix is minor and the offences under the POCSO

Act, 2012 are alleged and hence, the custodial interrogation of the petitioner is required.

Taking into consideration the facts and circumstances of the present case on the anvil of parameters of Section 438 Cr.P.C., the arguments raised by the petitioner, do not qualify for grant of anticipatory bail as the thorough investigation is required for which the custody of the petitioner is obvious.

The petition being devoid of any merits, is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

24.8.2021
sharmila