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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36218-2021 (O&M)

Date of decision : 03.09.2021

Jagjit Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr. Rahul Bhargava, Advocate
for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

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.

Petitioner has approached this Court by way of filing petition under Section 438 Cr.P.C. seeking grant of anticipatory bail in FIR No.47 dated 24.05.2021, registered under Sections 376, 452 of the Indian Penal Code, 1860 and Section 8 of The Protection of Children from Sexual Offence Act, 2012 (for short 'the Act'), at Police Station Ghuman, District Gurdaspur.

Learned counsel for the petitioner submits that this is a second petition filed for grant of anticipatory bail. He contends that the victim has lodged the present FIR on the basis of the allegations that on 23rd May, 2021 around 12 o'clock, she was alone in the house and the main gate of her

house was open. Her neighbour, Akashdeep Singh @ Akash son of Kuldeep Singh, entered her house. Thereafter, finding her alone, he started trying to remove her *salwar* and without her consent, tried to commit rape with the victim. She raised hue and cry and in the meanwhile, her brother Sarwan Singh, reached on the spot and tried to catch Akashdeep Singh @ Akash but he escaped. On the basis of the allegations, the FIR was lodged and investigation is under progress.

Petitioner has approached the learned Additional Sessions Judge and his first anticipatory bail application under Section 438 Cr.P.C. was dismissed vide order dated 08.07.2021.

Aggrieved by the same, the petitioner approached this Court vide CRM-M-29412-2021 and the same was disposed of with observation that if he appears before the Court concerned upto 23.08.2021, then he would be protected from being arrested for seven days from the date of his appearance.

The petitioner approached the learned Additional Sessions Judge, Gurdaspur again and after hearing, his anticipatory bail was declined vide order dated 27.08.2021.

Aggrieved by the same, the petitioner has approached this Court for grant of anticipatory bail.

Learned counsel for the petitioner contends that the name of the accused mentioned in the FIR is Akashdeep @ Akash, whereas, the petition is in the name of Jagjit Singh and thus, the allegation in the FIR does not belong to the present petition. He further contends that the petitioner is a reputed *kabaddi* player and has an impeccable record. He further contends that now the victim as well as her mother both have stated before the

learned Additional Sessions Judge that the accused who is named as Akashdeep @ Akash in the FIR is not Jagjit Singh. He would submit that the petitioner has been falsely implicated and hence, deserves to be protected by granting the anticipatory bail.

Learned State counsel has vehemently opposed the contentions raised by learned counsel for the petitioner. She submits that this is the second petition filed by the petitioner where the prosecutrix is 16 years of age. The statement of the prosecutrix was recorded earlier wherein, it has been found that Akashdeep Singh @ Akash and Jagjit Singh is one and the same person and hence, there is no dispute regarding the identity of the petitioner. She has further submitted that the petitioner is a neighbour of the prosecutrix and hence, there cannot be any doubt regarding the identity of the accused. As a result, she has argued that the case pertains to a heinous offence and custodial interrogation of the petitioner is required for thorough investigation.

I have heard learned counsel for the petitioner and perused the records.

There is no gainsaying that the victim is 16 years of age and there are specific allegations pertaining to a heinous offence. The outcome of the investigation so far *prima facie* reveals that Akashdeep Singh @ Akash and Jagjit Singh are the name of one and the same person. Though, on 24th August, 2021, the prosecutrix has deposed that Jagjit Singh is different from Akashdeep Singh @ Akash but the same is a matter of investigation.

The petitioner is at large and in the facts and circumstances, I am of the opinion that custodial interrogation of the petitioner is required in the case to unveil the truth in the allegations made. The Hon'ble Supreme Court

in State Vs. Anil Sharma, (1997) 7SCC 187, held as under:-

6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconded with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.

In the overall facts and circumstances of the case, the Court finds that there is no merit in the petition and the same is hereby dismissed.

(**RAJESH BHARDWAJ**)
JUDGE

03.09.2021
m. sharma

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No