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

CRM-M-41383-2021

Date of Decision: October 11, 2021

Sahil

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM:- HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mrs.G.K.Mann, Sr.Advocate with
Mr.Jansher Singh Bajwa, Advocate
for the petitioner.

Mr.Manish Bansal, DAG, Haryana.

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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.

Present petition has been filed praying for grant of anticipatory bail to the petitioner in case FIR No.0316, dated 06.07.2021, under Sections 363/ 366-A/376/120-B IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Civil Line, District Kaithal.

The FIR in question was registered on the statement of Shayam Sunder S/o Sheokaran. It was alleged that he works as a labourer and has one daughter and three sons. His daughter, whose date of birth is 07.03.2006, studies tuition of 11th class. On 06.07.2021 his daughter went for tuition and thereafter she did not return home. It was suspected that somebody has enticed her away on the pretext of marriage and it was prayed that action be taken against the guilty. In pursuance to the same, the

investigation commenced. Apprehending the arrest, the petitioner preferred the petition under Section 438 Cr.P.C. for grant of anticipatory bail before the learned Additional Sessions Judge, Kaithal. After hearing, the same was declined by the Additional Sessions Judge vide its order dated 27.09.2021. Aggrieved by the same, the present petition has been filed.

Learned Senior counsel for the petitioner has vehemently submitted that in view of the facts and circumstances of the present case, no offence is made out against the petitioner. She has submitted that the petitioner has been named in the FIR on the basis of disclosure statement of the accused Dinkesh. Learned senior counsel submits that no reliance can be placed on the disclosure of the said Dinkesh. It was argued that the petitioner is a taxi driver, who had no intention for the offence alleged and hence he deserves the concession of anticipatory bail.

On the other hand, learned State counsel has placed on record the status report by way of an affidavit of Abhimanyu Goyat, Probationary Deputy Superintendent of Police, Kaithal and he has vehemently opposed the submissions made by the learned senior counsel. He submitted that on 06.07.2021 at about 4.30 p.m., the victim had been taken away by the co-accused Dinkesh on his motor-cycle against the consent of her lawful guardian and sexually assaulted her in a car bearing No.HR32G-4575 mark Swift, which was provided and driven by the applicant-accused Sahil. It was argued that the co-accused Dinkesh committed the offence of kidnapping, penetrating and the sexual assault upon the child victim and the petitioner is an accomplice in the same. He submits that the matter is under investigation. The allegations are serious in nature and for thorough investigation, the custodial interrogation of the petitioner is required.

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

The victim in the present case is minor. Her statement was recorded under Section 164 Cr.P.C. on 07.07.2021 and thereafter the supplementary statement under Section 161 Cr.P.C. was recorded on 08.07.2021. The same are appended by the State alongwith the status report filed wherein it was alleged that in the supplementary statement under Section 161 Cr.P.C. it was alleged by the victim that on 08.07.2021 the co-accused Dinkesh started molesting her in the car driven by petitioner-Sahil. Thereafter, Dinkesh made to inhale her some chemical due to which the victim lost her consciousness. The victim, on regaining her consciousness, realised that the rape has been committed upon her against her consent. Co-accused Dinkesh has already been sent in judicial custody. The petitioner provided his car in facilitating the offence committed by his co-accused.

In the facts and circumstances of the case, thorough investigation is required. The role of the petitioner has surfaced during investigation. Enlarging the petitioner on anticipatory bail would have a direct bearing on thorough investigation.

In the overall facts and circumstances, this Court finds that the petitioner has no case for grant of anticipatory bail. The petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

11.10.2021
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- 1. Whether speaking/reasoned ?**
- 2. Whether Reportable ?**

Yes/No
Yes/No