

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(106)

CRM-M-47961-2021

Date of Decision: 16.11.2021

Banwari Lal

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

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

Ms. Sakshi Bakshi, A.A.G., Punjab.

Ms. Alisha Arora & Mr. S.S. Kainth, Advocates
for the complainant.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 438 Cr.P.C for grant of pre-arrest bail to the petitioner in FIR No.102 dated 12.10.2021 registered under Section 354-A IPC and Section 8 of POCSO Act at Police Station, Khuhi Khera, District Fazilka.

As per facts of the case, FIR in question was registered by the victim (name withheld) herself, wherein it was alleged that she is 13 years of age and studying in 6th standard. On 10.10.2021 at about 3 PM when she was doing her school work in the courtyard of her house then accused Banwari Lal came to the courtyard and asked for the newspaper to read. While she was handing over the same to him he caught hold her and starting doing illegal acts with her private parts. When she started crying and raised alarm the accused ran away from the spot. It was also alleged that on earlier occasion also the accused gave her vulgar gestures. She disclosed the incident to her mother, who conveyed the same to the father of the victim. As a result, the present FIR was lodged for taking legal action against the culprit. Apprehending his arrest, petitioner approached learned Sessions

Judge, Fazilka for grant of anticipatory bail but the same was declined vide order dated 2.11.2021. Aggrieved by the same, petitioner has approached this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that the occurrence took place on 10.10.2021, whereas the FIR in question was lodged after a delay of 2 days i.e. on 12.10.2021. It has been further submitted that the petitioner has been falsely implicated in the present case for the reason that the father of the victim is convicted under the N.D.P.S Act for which he suspected the petitioner having played a key role in implicating him. Counsel further submits that as there is unexplained delay of 2 days the allegations made in the FIR are totally after thought. It is further submitted that petitioner is 58 years of age and is ready and to join investigation.

I have heard learned counsel for the parties at length and have gone through the records made available.

It is apparent from the facts of the case that the victim is 13 years of age and has levelled specific allegations against the petitioner. A young child of the age of victim cannot be presumed to have any axe to grind against the petitioner. Hence, the allegations made in the FIR deserved to be thoroughly investigated. The anticipatory bail is to be considered on the statutory parameters as contained in Section 438(1) Cr.P.C. Weighing the facts and circumstances of the present case on the anvil of the parameters of Section 438 Cr.P.C, this Court finds that the petitioner does not qualify for the grant of relief as prayed for in the present petition.

Petition being devoid of any merit is dismissed.

(RAJESH BHARDWAJ)
JUDGE

16.11.2021

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