

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(216)

CRM-M-2074-2022

Date of Decision: 15.2.2022

Lakhwinder Singh

--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.

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.

The present petition has been filed under Section 438 Cr.P.C for grant of pre-arrest bail to the petitioner in FIR No.118 dated 28.12.2021 registered under Sections 354, 363 IPC at Police Station, City Mallanwala, District Ferozepur.

As per factual matrix of the case, the FIR in question was lodged by Jasvir Kaur, wherein it was alleged that her husband was a truck driver and she had four children. Her daughter (name concealed), who is victim in the present case was aged about 15/16 years and was mentally challenged. Lakhwinder Singh son of Jagga Singh was on visiting terms with the family. On earlier occasions also he misbehaved with her mentally challenged daughter but in order to save the dignity of the family they did not disclose anything to anyone. On 26.12.2021 at about 6.30 PM her brother-in-law Kala Singh told her that her daughter had been taken away by Lakhwinder Singh. On hearing this she along with her sister-in-law and

brother-in-law went towards the fields. On reaching near the field of Jaswant Singh they saw Lakhwinder Singh going towards the colony after leaving her daughter there. They took her daughter at home. On asking, her daughter/victim told that Lakhwinder Singh opened her clothes. In order to save the dignity of the family they did not disclose the incident to anyone, however, later on they decided to lodge the FIR. A request was made to take legal action against the culprit.

The investigation commenced and the investigating agency started making efforts to trace the accused/petitioner. The petitioner approached learned Addl. Sessions Judge, Fast Track Court, Ferozepur for grant of bail, however, after hearing the parties, the same was declined vide order dated 7.1.2022. Aggrieved by the same, petitioner has approached this Court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present FIR. He submits that the story put forward by the complainant is totally concocted one. Counsel submits that the FIR has been lodged against the petitioner only due to the political rivalry. It is further submitted that there is a delay of 2 days in lodging the FIR.

The learned State counsel was directed to file a status report in the matter. The same has been filed and placed on record. Learned State counsel submits that during investigation it was found that victim is mentally challenged and the allegations against the petitioner are serious in nature as he is alleged to have removed her clothes. There are chances that in case petitioner is granted anticipatory bail the same can prejudice the ongoing investigation.

Having heard learned counsel for the parties, this Court finds that the allegations levelled against the petitioner are serious in nature. Victim is a mentally challenged girl. Allegedly petitioner removed her clothes. While considering the prayer for grant of anticipatory bail, the court is to strike a balance between the liberty of the individual and the overall interest of the society. The interest of the society prevail upon the personal liberty. For consideration of the anticipatory bail, the following factors are to be taken into consideration:-

- “(i) the nature and gravity of the accusation;*
- (ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;*
- (iii) the possibility of the applicant to flee from justice; and*
- (iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested, either reject the application forthwith or issue an interim order for the grant of anticipatory bail.”*

In view of the facts and circumstances of the case, this Court finds that the petitioner does not qualify the parameters for grant of anticipatory bail. Resultantly, the petition being devoid of merits, is dismissed.

(RAJESH BHARDWAJ)
JUDGE

15.2.2022

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