

CRM-M-16149-2022

Date of Decision: 01.08.2022

ASHISH

... PETITIONER

VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. L.S.Mann, Advocate, for the petitioner.
Mr. Hittan Nehra, Additional Advocate General, Punjab.

VIVEK PURI, J.(ORAL)

The petitioner is seeking anticipatory bail in case bearing FIR No.34 dated 21.02.2022 under Section 376 IPC (Sections 3 & 4 of Protection of Children from Sexual Offence Act, 2012 added later on) registered at Police Station Daresi, District Police Commissionerate, Ludhiana.

Briefly, the FIR has been registered on the basis of the statement of the mother of the victim alleging that on 18.02.2022, the victim went missing from the house. On 20.02.2022, she returned back and while weeping informed that on 18.02.2022, she was standing in the street outside her house. Meanwhile, Ashish and Gagan, residents of their mohalla, came on a motorcycle and took her by alluring her in their talks. The victim and Ashish were left in an unknown hotel at Chandigarh road Ludhiana and Gagan went away. The petitioner developed physical relations with the victim without her consent.

Learned counsel for the petitioner contends that the petitioner is aged about 15½ years and is a juvenile. In such circumstances, he is entitled to leniency in the matter. It has been further stated that the compromise has also been effected and the mother of the victim has submitted an affidavit in this regard.

Learned State counsel has opposed the bail application on the score that there are specific and categoric allegations levelled against the petitioner for having committed penetrative sexual assault upon the victim, who is aged about 16½ years. Moreover, the statement of the victim has also been recorded under Section 164 Cr.P.C., wherein, she has also imputed allegations against the petitioner.

Merely because, the mother of the victim has sworn an affidavit in favour of the petitioner, cannot be termed to be a circumstance to conclude his innocence. In the instant case, the victim is a girl, aged about 16½ years, and any such affidavit of mother cannot be termed to be a circumstance to enure any benefit to the petitioner. The affidavit of the mother of the victim is indicative of the fact that the petitioner is making any attempt to win over the witnesses as the victim and her mother are residents of the same mohalla. There are specific and categoric allegations of commission of penetrative sexual assault levelled against the petitioner. Even on the assumption that the petitioner is a juvenile, the provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act 2015, will take care of his interest when he is apprehended or detained by the police or appears or brought before the Board.

Keeping in view the gravity of allegations against the petitioner, no exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner.

Dismissed.

01.08.2022
smriti

(VIVEK PURI)
JUDGE

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