

FAGU SHARMA

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Kamal Chaudhary, Advocate
for the petitioner.

Mr. Zorawar Singh Chauhan, DAG, Haryana.

VIVEK PURI, J. (ORAL)

Present petition is under Section 438 Cr.P.C. for seeking anticipatory bail to the petitioner in case FIR No.22 dated 30.03.2022, registered under Section 4 read with Section 18 of POCSO Act, at Women Police Station, Panchkula.

Briefly, the case has been registered on the basis of the statement of the father of the victim (aged about 13 years) alleging that the victim along with her friends were going to the market. When she reached near the shop of the petitioner who is working as blacksmith, he told the victim that a sum of Rs. 50/- was due to her father. Accordingly, the victim was taken inside, the room was locked, the petitioner removed his pant and disrobed the victim. When the victim started crying, the field side hawkers reached at the spot, broke open the door of the room and victim was brought out. A video of the incident was also prepared.

Learned counsel for the petitioner contends that the petitioner is aged about 64 years and is being falsely implicated in the instant case. There is a delay of 03 days in lodging the FIR. Furthermore, at the first instance a Kalandara under Sections 107/151 Cr.P.C was prepared wherein the allegations were

levelled by the sister of the victim that the petitioner had confined the victim in the room as it was suspected that she had come to the shop with an intention of stealing. It has been further argued that the video which has been recovered does not indicate that the petitioner had removed his clothes.

On the contrary, the bail application has been resisted by the learned State counsel on the score that the victim is aged about 13 years and specific and categoric allegations of disrobing her and removal of the clothes of the petitioner have been levelled by her in her statement under Section 164 Cr.P.C.

The FIR is stated to have been lodged after a delay of 03 days. It cannot be termed to be circumstance to disbelieve and discard the version of the prosecution. The effect of delay, if any, is to be seen during the course of trial. Even the kalandara under Sections 107/151 Cr.P.C is indicative of the fact that the victim was confined in the shop of the petitioner. The victim is aged about 13 years. In her statement under Section 164 Cr.P.C, there is specific and categoric allegation to the effect that the petitioner had disrobed her and also lowered his own pant. There are serious allegations to the effect that the petitioner had tried to sexually exploit a 13 years old female child by alluring her inside the shop. The video is alleged to have been prepared at the time the victim was rescued. In view of the categoric statement of the victim, who aged about 13 years, the matter requires thorough probe and investigation and no extraordinary circumstances are made out to extend the concession of pre-arrest bail to the petitioner.

In view of the above, the present petition is dismissed.

28.07.2022
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No