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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21403-2022

Date of Decision: May 18, 2022

Saggar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Sunil Agnihotri, Advocate, for the petitioner.

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RAJESH BHARDWAJ, J.(ORAL)

The instant petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.0038, dated 08.02.2022, under Sections 376, 120-B IPC and Section 4 of the POCSO Act, 2012, registered at Police Station Haibowal, Ludhiana.

As per the facts of the case, the present FIR has been lodged by the mother of the victim (name concealed). As per the allegations, on 08.02.2022 daughter of the complainant, who was studying in 7th class, went to the school. However, she was having some abdomen pain from last some days and on that day she forgot to take medicine with her. The complainant/mother went to school to hand over the medicine and found that her daughter had already left the school. When her daughter returned home, she told her that she was in contact with the accused on Face book. She was told by the victim that the accused took her to Sood Stays Hotel and he forcibly did wrong act with her.

FIR was lodged with the request to take legal action against the culprit.

Apprehending his arrest, the petitioner approached the learned

Additional Sessions Judge/Fast Track Special Court under POCSO Act, Ludhiana, praying for grant of anticipatory bail, who after hearing, declined the same vide its order dated 14.03.2022. Aggrieved by the same, the petitioner is before this Court.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that he is only 23 years of age whereas the victim is also 18 years of age. He submits that the parties have also entered into a compromise and hence the petitioner be granted concession of anticipatory bail.

Heard.

Apparently, the investigation is at threshold. As per record, the age of the victim was about 14 years and 02 months and thus she was a minor. In view of Sections 29 and 30 of POCSO Act, the presumption against the petitioner are applicable. For the consideration of the anticipatory bail, the statutory provisions of Sections 438(1) Cr.P.C. are very clear which prescribes the factors like gravity of the offence, antecedents of the petitioner, probability of the petitioner fleeing from justice, chances of tampering with the evidence, are to be taken into consideration. Keeping in view the facts and circumstances of the present case on the anvil of the statutory provisions and the law settled, the Court finds that the petitioner does not qualify for grant of anticipatory bail.

In view of the above, the present petition being devoid of any merit is hereby dismissed.

May 18, 2022

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(RAJESH BHARDWAJ)

JUDGE

1. Whether speaking/reasoned ?

Yes/No

2. Whether reportable ?

Yes/No