

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

101

CRM-M-24346 of 2021
Date of decision :-29.04.2022

Gurlal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Jasvir Singh Dhaliwal, Advocate for the petitioner.

Mr. A.S. Gill, Senior DAG, Punjab

SUVIR SEHGAL, J.

Instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 (for short “Cr.P.C.”) seeking grant of pre-arrest bail to the petitioner in case FIR No.43 dated 17.03.2020 lodged for offence under Section 376 IPC and Section 4 of Protection of Children from Sexual Offences Act, 2012 (for short – “the POCSO Act”) at Police Station Lopoke, District Amritsar.

Case of the prosecution is that FIR has been registered on the statement of a 17½ year old 10th grade student of a Government School, who stated that her father died about 10-12 years ago and she is staying with her mother and four siblings. She is assisting her mother as a cleaning servant in residential houses. On 15.03.2020 at 10.00 am when she was alone at home and sweeping her room, Gurlal Singh, present petitioner, entered her home grabbed her hand and when she tried to shout, he muffled her mouth, and sexually assaulted her. Upon hearing her screams, her uncle and aunt (*chacha-chachi*) came from the neighbouring house but by then Gurlal

Singh had run away. Her mother discussed the incident with people around and then brought her to the police station.

Counsel for the petitioner has contended that there is a delay of two days in the lodging of the FIR, which is a bundle of lies as it is highly improbable that the petitioner would enter the house of the victim in a broad day light at 10.00 am and sexually exploit her, more particularly when her house is in a busy area. He submits that the FIR has been lodged to settle a personal score as there is a dispute regarding a LIC policy between family members of the petitioner and the complainant.

Per contra, learned State counsel, upon instructions from ASI Rajinder Singh, has opposed the petition. He has referred to the statement of the prosecutrix recorded under Section 164 of Cr.P.C. and also to the affidavit filed by the Deputy Superintendent of Police, Sub Division Attri, Amritsar Rural in compliance of order dated 27.07.2021 passed by this Court. He has urged that the prosecution possesses sufficient incriminating material to nail the petitioner.

Heard counsel for the parties.

There are specific allegations against the petitioner, who has not only been named in the FIR but also in the statement of the prosecutrix recorded before the Magistrate. The prosecutrix has accused the petitioner of sexually assaulting her by taking advantage of the fact that she was a minor and alone at home. Though the counsel for the petitioner has contended and referred to para 6 of the petition, yet he could not elaborate about the alleged dispute regarding the LIC policy even though he was specifically questioned by the Court and asked to produce any document in support thereof. In any case, the same would remain subject matter of trial. The alleged delay in the

lodging of the FIR has been explained by the prosecutrix in her statement before the police wherein she has stated that her mother was discussing further course of action to be taken. Considering the economic status of the prosecutrix and her family, the reluctance of her widowed mother to approach the police immediately, is understandable.

Report received from the Chemical Examiner shows that the minor prosecutrix is probably a victim of sexual assault. Reference in particular, deserves to be made to para 7 of the affidavit filed by the State and the same is reproduced as under: -

“7. That it is humbly submitted that the report of Chemical Examiner with respect to Vaginal swabs of the victim/complainant was received on 02/10/2020. According to which, ‘Spermatozoa were detected in the contents of exhibit 1 (1), (2) and (3)’. Thereafter the opinion was obtained from the doctor, who opined that.”... The survivor has been subjected to sexual assault as per the report of Chemical Examiner.”

It is a settled principle of law that the statement of the prosecutrix which is of a sterling quality and inspires confidence, does not require any corroboration. It has been so held by the Supreme Court in **Phool Singh vs. State of Madhya Pradesh 2022 (2) SCC 74.**

Keeping in view the grave nature of allegations, gravity of offence allegedly committed by the accused-petitioner, age of the prosecutrix, who is yet to be examined, severity of punishment in case the accused is convicted and the fact that the accused is a neighbour and is in a position to influence or intimidate the minor prosecutrix, although he has joined the investigation, this Court is not inclined to extend the concession of anticipatory bail to the petitioner.

As a result of the above discussion, there is no merit in the petition, which is ordered to be dismissed.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

Considering that the petitioner has been on interim bail since 27.07.2021, he is granted three weeks’ time to surrender.

29.04.2022
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No