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

CRM-M-28180-2022

Date of Decision: July 06, 2022

Sameer @ Guddu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.J.S.Grewal, Advocate
for the petitioner.

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RAJESH BHARDWAJ, J.(ORAL)

Instant petition has been filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case FIR No.194, dated 23.12.2021, under Sections 363, 366-A IPC, registered at Police Station City Fazilka, Tehsil and District Fazilka.

It has been contended by learned counsel for the petitioner that the petitioner has been falsely implicated in this case merely on the ground that he happens to be the brother of the main accused, i.e. Ankush. He submits that FIR has been registered under Sections 363, 366-A IPC out of which only Section 366-A IPC is non-bailable. He has submitted that even from reading of the allegations in the FIR, no cognizable offence is made out against the petitioner. He further submits that after registration of the FIR, the petitioner approached the Court of learned Special Court, POCSO, Fazilka wherein his pre-arrest bail has been declined by ignoring his contentions. He submits that the family of the petitioner has disowned his

that in view of the facts and circumstances, the petitioner deserves to be granted anticipatory bail.

Notice of motion.

On the asking of the Court, Ms.Ishneet Kaur, AAG, Punjab, who is present in Court, accepts notice on behalf of the respondent-State and opposes the submissions made by counsel for the petitioner. She has submitted that case is at threshold and till date neither the victim, who is 16 years of age, i.e. minor could be recovered nor any of the accused could be arrested. She submits that FIR was lodged by the mother of the victim wherein both the accused, i.e. Ankush @ Ninja and the petitioner have been specifically named and thus complicity of the petitioner is writ large. She further submits that granting anticipatory bail to the petitioner would definitely hamper the investigation which is at a nascent stage.

After hearing the learned counsel for the respective parties, this Court finds that the petitioner has been specifically named in the FIR. The victim in the case is 16 years of age and a minor. Even if the victim has any consent, the same would be immaterial in view of the statutory provisions. It is a settled proposition of law that for consideration of pre-arrest bail, the Court is to keep in mind the gravity of offence, probability of the accused fleeing from justice and the possibility of the accused tampering with ongoing investigation. Besides this, the Court is to take into consideration the overall interest of the society which would prevail upon the personal liberty of the accused.

Keeping in view the overall facts and circumstances and the law settled, the Court finds that the petitioner does not clarify for the grant of pre-arrest bail in the case.

Resultantly, the petition being devoid of any merit is hereby dismissed.

July 06, 2022
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(RAJESH BHARDWAJ)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |