

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

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**CRM-M-33396-2021
Decided on : 11.01.2022**

Sharad Joshi

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. Simranjeet Singh Sidhu, Advocate
for the petitioner(s).

Ms. Gaganpreet Kaur, AAG, Haryana
assisted by PSI Savina.

Mr. Ashish Sanghi, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (Oral)

The present petition has been filed under Section 438 Cr.P.C., for grant of anticipatory bail to the petitioner, in case FIR No. 481, dated 30.06.2021, lodged under Section 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 506 of IPC, registered at Police Station City, Narnaul (Annexure P-3).

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the instant case due to a dispute between him and the complainant party regarding the use of a vacant plot near their respective houses. Learned counsel further submits that in fact, on the 30th June, 2021, the petitioner and his son were attacked at 08:00 P.M. while they were returning home, by the complainant and his family, as a result of which, he received serious injuries including fractures on his legs, for which, he had to be hospitalized. In support, learned counsel has drawn the

attention of this Court to Annexure P-1, which is the MLR of the petitioner dated 30th June, 2021. Learned counsel submits that the alleged occurrence took place on 27th June, 2021, however, there was a delay of three days in the lodging of the FIR in question, which clearly indicated that for reasons but obvious and to settle scores with the petitioner, a false FIR had been registered against him alleging that he had been sexually assaulting the minor daughter aged 10 years, of the complainant for the last many months. Learned counsel further submits that the reliance placed upon a CCTV footage by the complainant to show the petitioner's entry into their house and thereafter, his exit would not be a sufficient enough proof *qua* his complicity in the crime in question, as it was not discernible as to whether it was the petitioner or some other person, who was seen in the said footage. He further submits that in compliance of the order dated 18th August, 2021, he had joined investigation and cooperated with the investigating agency.

Per contra, learned State counsel assisted by learned counsel for the complainant, while vehemently opposing the prayer and submissions made by learned the counsel opposite, has not disputed the factum of the petitioner having joined investigation. However, it has been urged that there were serious and specific allegations levelled against the petitioner aged 58 years, of having sexually assaulted the victim, aged 10 years on a number of occasions. Learned State counsel further submits that on 27th June, 2021, the mother of the victim had caught the petitioner red handed when he yet again attempted to sexually assault her daughter. Learned State counsel while inviting the attention of this Court to a detailed affidavit of Mr. Narender Kumar, HPS, Deputy Superintendent of Police, Narnaul, District Mahendergarh, filed on behalf of the respondent-State, has

submitted that during investigation a CD containing the CCTV footage of the incident dated 27th June, 2021, had been collected by the investigating agency, wherein, the petitioner was clearly visible entering the house of the complainant and thereafter, making a hurried exit. Learned State counsel has submitted that not only this, the victim while getting her statement recorded before the Child Welfare Committee as well as in her statement recorded under Section 164 Cr.P.C., had reiterated the allegations against the petitioner to the effect that the petitioner had been sexually assaulting her for the past many months and had also been threatening her with dire consequences in case she dared to divulge about the same to anyone.

Learned State counsel has further submitted that no doubt the petitioner had indeed been hospitalized on 30th May, 2021, however, the said fractures had been sustained by him three days after the occurrence in question and hence the petitioner could not derive any benefit out of the same by urging that it could not have been possible for him to have visited the house of the victim on the fateful day.

Learned State counsel has, therefore, prayed for dismissal of the instant petition by urging that in the wake of serious and specific allegations levelled against the petitioner, the investigating agency would require his custodial interrogation.

I have heard learned counsel for the parties and perused the material on record.

In the facts and circumstances as enumerated hereinabove and in the wake of *prima facie* allegations levelled against the petitioner of subjecting a minor, a 10 years old girl to repeated sexual assaults, this Court does not deem it appropriate to extend him the extraordinary concession of

anticipatory bail.

Dismissed. However, anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

January 11, 2022
J.Ram

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