

105

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

CRM-M-31084-2022

Date of Decision: July 20, 2022

Malik Masih @ Malik Mustak

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.B.S.Bhalla, Advocate
for the petitioner.

Ms.Sakshi Bakshi, AAG, Punjab.

.....

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.147, dated 23.12.2018, under Sections 376, 363, 366A, 120-B IPC, registered at Police Station Bhindi Saidan, District Amritsar.

At the outset, learned counsel for the State, on instructions from SI Tajinder Singh, submits that after registration of the FIR, offences under Sections 376D, 506 IPC and Section 3 POCSO Act were added on 09.11.2019 vide GD No.22. Counsel for the petitioner submits that he is not having any knowledge of the said case. It is further submitted that this FIR be read also as under Sections 376D, 506 IPC and Section 3 POCSO Act in addition to the offences already mentioned in the head-note. Ordered accordingly.

However, learned counsel for the petitioner has asserted that FIR is dated 23.12.2018 and till date, no action has been taken against the petitioner. It is further submitted that the petitioner has been falsely

implicated in this case. Co-accused of the petitioner Manga Masih has been arrested. He has also emphasized on the mutual settlement arrived at by the parties after registration of the FIR. He submits that in view of the facts and circumstances of the case, as petitioner has been falsely implicated in this case, he deserves to be granted anticipatory bail.

Heard.

The victim is 14 years of age and admittedly a minor. After registration of the FIR, the statement of the victim was recorded under Section 164 Cr.P.C. wherein she has deposed that the petitioner kidnapped her and thereafter committed rape upon her. As per the submissions made by the State counsel, the case is under investigation as on date. Even otherwise there lies a presumption under Sections 29 of the POCSO Act and regarding culpable mental state under Section 30 of the POCSO Act.

In view of the facts and circumstances of the case, there is nothing to doubt the allegations made by the victim at this stage. Needless to say that while granting anticipatory bail the Court is to keep in mind the factors like gravity of the offence, probability of the petitioner fleeing from justice and the possibility of the petitioner hampering with the investigation.

Weighing the facts and circumstances of the present case on the anvil of law settled, this Court is of the opinion that the petitioner does not qualify for the grant of anticipatory bail.

Finding no merit in the petition, the same is hereby dismissed.

However, nothing said hereinabove shall be construed to be an expression on the merits of the case.

July 20, 2022
meenuss

(RAJESH BHARDWAJ)
JUDGE