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

CRM-M-33317-2022

Date of Decision: August 01, 2022

Dhanvir Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Fariad Singh Virk, Advocate
for the petitioner.

.....

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.84, dated 30.05.2022, under Sections 354-A IPC and Section 10 of POCSO Act, registered at Police Station Sadar District Patiala.

As per facts of the case, the present FIR was lodged by the prosecutrix herself wherein it was alleged that she is 14 years of age and studying in 10th class at Government Senior Secondary Smart School Kauli. On 27.05.2022, they were called to school for dance practice. Her teacher Dhanveer came to her and seeing her alone took her to the sports room where she was sexually assaulted. She was very scared. She pushed the teacher and ran out from there. Her mother was out of station on that day and when she returned, she disclosed the same to her and thereafter the present FIR was lodged.

Apprehending his arrest, the petitioner approached the learned

Additional Sessions Judge, Fast Track Special Court, Patiala, who after

hearing the parties, declined the same vide its order dated 13.07.2022.

Aggrieved by the same, the petitioner is before this Court praying for grant of anticipatory bail.

It has been contended by counsel for the petitioner that the petitioner has been falsely implicated in this case. He submits that the petitioner is on the verge of his retirement and has committed no wrong. He submits that the petitioner has compromised the matter with the parents of the prosecutrix and now the matter has been amicably resolved and thus, the petitioner be granted the concession of anticipatory bail.

Heard.

The prosecutrix is minor aged about 14 years. There are specific allegations of sexual assault of the prosecutrix by the petitioner. Petitioner is none other than the teacher of the prosecutrix. The victim not only levelled the allegations in the FIR but supported the same when her statement was recorded under Section 164 Cr.P.C. 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 petitioners, probability of the petitioners fleeing from justice, chances of tampering with the evidence to be taken into consideration. In **Gurbaksh Singh Sibbia and others vs State of Punjab**, AIR 1980 SC 1632, Hon'ble the Supreme Court of India has laid down that the Courts while dealing with the anticipatory bail has to strike the balance between the personal liberty and the overall interest of the society. However, the overall interest of the society will prevail upon the personal liberty of the individual. Hon'ble the Supreme Court in **State represented**

by CBI Vs. Anil Sharma, (1997) 7 SCC 187 has held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disintering offences would not conduct themselves as offenders.”

Weighing the facts and circumstances of the present case on the anvil of statutory parameters and the law settled, this Court finds that the petitioner does not qualify for invoking the extraordinary jurisdiction in his favour, hence, the present petition being devoid of any merit is, hereby, dismissed.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

August 01, 2022
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(RAJESH BHARDWAJ)
JUDGE

1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No
Yes/No