

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

CRM-M-36337-2022 (O&M)

Date of decision: 18.8.2022

Parwinder Singh @ Mani

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Gurpal Singh Sandhu, Advocate, for the petitioner.

RAJESH BHARDWAJ, J.

The petitioner has approached this Court praying for grant of anticipatory bail in a case FIR No.137, dated 21.6.2022, registered under Sections 354-A, 354-D IPC and Sections 8, 11 (iv) and 12 of POCSO Act, 2012, at Police Station City Sri Muktsar Sahib, District Sri Muktsar Sahib.

As per facts of the case, the FIR in question was lodged by the mother of the victim. It was alleged that her daughter i.e. the victim is about 12 years of age. On 31.3.2022 when her daughter was coming home from the school, then about 2:00 pm in the noon, accused Mani Singh son of Surjit Singh alias Kala Singh started following her on two motorcycles and outraged her modesty. For the sake of the honour of the family, they kept mum, however, on 27.5.2022, when her daughter was returning home from school again the accused alongwith other co-accused followed her and repeated the offence. Thus, finally the complaint was lodged to the Police for taking legal action. On the basis of the complaint, the present FIR was lodged and the investigation commenced. Apprehending arrest, the petitioner approached the Court of learned Additional Sessions Judge, Sri Muktsar Sahib for grant of

anticipatory bail, who after hearing both the sides declined the same vide order dated 2.8.2022. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of anticipatory bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that there is a delay of more than 30 days in reporting the matter to the Police. He submits that there is specific motive to implicate the petitioner in this case as there is a dispute going on with the petitioner's father. He submits that no offence is made out against the petitioner and thus, he deserves to be granted bail.

Heard.

The prosecutrix in this case is 12 years of age. She has levelled specific allegations against the petitioner. The investigation is at threshold. The complicity of the petitioner alongwith the co-accused, specifically alleged. The case needs thorough investigation. 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 ensconded with a favorable order under [Section 438](#) if 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.”

The Hon'ble Supreme Court, in Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632 has held as under:-

“31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking

anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

In the abovesaid case, the Hon’ble Supreme Court has held that the Court is to draw a balance between the right of liberty of the individual and overall interest of the society. However, overall interest of the society would prevail upon the right of liberty of the individual. The Hon’ble Apex Court in plethora of judicial precedents has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which can be exercised in the extraordinary circumstances. Weighing the facts and circumstances of the case on the anvil of law settled, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

(**RAJESH BHARDWAJ**)
JUDGE

18.08.2022
sharmila

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No