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

CRM-M-36607-2022

Date of Decision: August 22, 2022

Dheeraj

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Baljeet Beniwal, 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.52, dated 10.08.2020, under Sections 354-A, 506 and 34 IPC and Section 10 of the POCSO Act, 2012, registered at Police Station Women Palwal, District Palwal, in which the petitioner has been summoned by the trial Court vide its order dated 07.07.2022 to face trial under Section 10 of the POCSO Act and Section 506 IPC.

As per facts of the case, the complaint was filed by the victim (name concealed). The sum and substance of the FIR is that the victim was 11 years of age and studying in 6th standard at the time of occurrence. On 03.08.2020 when she was returning back from a shop, on the way, Dheeraj son of Subhash and one another boy, came on the bike. Dheeraj alighted from the bike and caught hold her from behind. He tried to gag her mouth by putting a cloth in her mouth. She raised alarm and they fled away from there by threatening her. On the basis of the complaint, the FIR was lodged

and the investigation commenced.

Apprehending his arrest, the petitioner approached the learned Additional District & Sessions Judge, Palwal, however, the same was declined by it vide its order dated 09.08.2022. Aggrieved by the same, the petitioner has approached this Court by way of present petition.

Counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He has submitted that the petitioner has committed no offence, as alleged. He submits that a thorough investigation was conducted and on the conclusion of the same, the police filed the cancellation report. It is further submitted that thereafter father of the complainant filed a protest petition before the trial Court, on the basis of which, the petitioner was summoned vide order dated 07.07.2022. He has submitted that the petitioner is a young boy with no criminal antecedents and he was rightly declared innocent by the Investigating Agency. He submits that the petitioner deserves to be granted anticipatory bail.

After hearing the counsel for the petitioner and perusing the record, this Court is not inclined to agree with the arguments raised by counsel for the petitioner. The victim in this case was 11 years of age at the time of occurrence. On perusal of the allegations in the FIR and the summoning order, it is apparent that there are specific allegations against the petitioner. As per the provisions of Sections 29 and 30 of the POCSO Act, there lies a presumption against the accused. For 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 are 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 a balance between the personal liberty and the overall interest of the society. However, the overall interest of the society will also prevail upon the personal liberty of the individual.

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 22, 2022
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(**RAJESH BHARDWAJ**)
JUDGE

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

Yes/No
Yes/No