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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46463-2022 (O&M)

Date of Decision: 04.10.2022

Amit Goyal

....Petitioner

V/s

State of Haryana and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Dr. Mewa Singh, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

DEEPAK MANCHANDA J.

The petitioner has approached this Court seeking anticipatory bail under Section 438 of the Code of Criminal Procedure (hereinafter to be referred as 'Cr.P.C.') to the petitioner in case bearing FIR No. 0575 dated 15.08.2022 under Section 10 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter to be referred as 'POCSO Act') registered at Police Station Krishna Gate, Thanesar, District Kurukshetra who apprehends his arrest at the hands of police.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case with an ulterior motive by the complainant/respondent no. 2 and further submits that since the matter has been compromised and an affidavit dated 21.08.2022 (Annexure P-3) to this effect has also been executed by the complainant/respondent No. 2 in favour of the petitioner, the concession of pre-arrest bail be granted on the basis of

said compromise/affidavit.

Mr. Gurmeet Singh, learned AAG Haryana, who is present in the Court and is in receipt of an advance copy of the paperbook supplied to the respondent State, after seeking instructions submits that there are specific allegations against the petitioner for sexually abusing his own niece aged 4 years and has produced the statement recorded under Section 164 Cr.P.C., which had been recorded in the presence of complainant/respondent No. 2, who is the mother of victim child, so keeping in view the same and nature of offence, the petitioner is not entitled for the benefit of pre-arrest bail as his release would be pre-judicial to the prosecution of case.

After hearing learned counsels for the parties, though as per affidavit dated 21.08.2022, the dispute between petitioner and the complainant/respondent No. 2 has been settled amicably, by submitting an affidavit dated 21.08.2022 (Annexure P-3) specifically stating therein that the said FIR was got lodged due to misunderstanding but keeping in view the nature of crime and the statement of victim child got recorded under Section 164 Cr.P.C., which cannot be ignored as the same is against the petitioner, where there are serious allegations, such settlement for the purpose of seeking pre arrest bail cannot be accepted.

Further, the dignity of a victim child cannot be allowed to be compromised by an agreement or settlement. The POCSO Act has been enacted with the objective of protecting child from offences of sexual assault and harassment. The whole case presented before this Court is on the basis of settlement, which cannot be allowed and would encourage an unhealthy trend and shall defeat the objective and spirit behind the legislation of

POCSO Act, which is a special statute.

In view of the above, this Court is not inclined to extend the extra ordinary concession of pre-arrest bail to the petitioner.

Hence, the present petition is dismissed.

Pending CRM, if any, also stand disposed of.

(DEEPAK MANCHANDA)
JUDGE

October 04, 2022
Ajay Goswami

Whether reasoning given	Yes/No
Whether reportable	Yes/No