

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

(209)

CRM-M-113-2022

DATE OF DECISION:- 25.01.2022

GAGGI SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Nirmaljeet Singh Sidhu, Advocate for the petitioner.

Mr. C.L.Pawar, Senior D.A.G., Punjab
for the respondent-State.

SUVIR SEHGAL, J. (ORAL)

Heard through video conferencing.

Vide the instant petition filed under Section 438 of the Code of Criminal Procedure, 1973, the petitioner is seeking grant of anticipatory bail in FIR No.24 dated 09.04.2021 registered for offences under Sections 376, 506 and 120-B of the Indian Penal Code, 1860 and Section 4 of Protection of Children from Sexual Offences Act, 2012, at Police Station Balianwali, District Bathinda, Annexure P-1.

FIR, Annexure P-1, has been registered on the statement of a labourer, who is the father of fifteen year old victim, wherein he stated that on 04.04.2021 when he returned home from work, he saw that his daughter was lying unconscious on a cot. When she regained consciousness, she stated that at about 10:00 A.M. in the morning, she went to the house of Suman, who is a relative living in the neighborhood,

where Charanjit Kaur, Gaggi Singh (present petitioner) and Pamma Singh were present, who took her to Mour on some pretext. She was given a cold drink and thereafter she does not remember anything. She came back home at about 04:00 P.M. and felt dizzy. She confided that she had been sexually exploited. The complainant confronted Gaggi Singh, Pammi Singh and others, but they abused him, and later attempts were made by the Panchayat to effect a compromise between the parties.

Counsel for the petitioner submits that on the day of alleged occurrence, the petitioner, who is a truck driver, was at Ludhiana as is apparent from the tower location of his mobile phone. He submits that the petitioner has been falsely named and vide order dated 30.07.2021, Annexure P-2, he was granted interim pre-arrest bail, subject to his joining the investigation, by the learned Additional Sessions Judge, Bathinda, but as the petitioner could not join the investigation, his bail application was dismissed on 25.08.2021, Annexure P-3. He has placed reliance on order dated 21.05.2021, Annexure P-4, whereby Charanjit Kaur and Suman were released on regular bail and on orders dated 30.07.2021 and 18.08.2021, Annexure P-5 and P-6, respectively, whereby co-accused, Pamma Singh @ Paramjeet Singh, was granted the concession of anticipatory bail, which was made absolute, by the learned Additional Sessions Judge, Bathinda. He contends that the FIR is a result of a party faction in the village.

Opposing the petition, State counsel, upon instructions from, ASI, Kuldeep Singh and on the basis of status report filed by way of an affidavit of Deputy Superintendent of Police, Sub Division, Mour,

Bathinda has argued that the victim has supported the allegation and her medical conducted on 11.04.2021 shows that she has been raped. He submits that challan against co-accused has been presented and charges have been framed against them and considering the seriousness of allegations, the petitioner does not deserve any concession.

I have considered the submissions of the counsel for the parties.

Admittedly, the victim is a minor girl and the Medico Legal Report shows that she has been exploited. The stand taken by the petitioner that he has been framed due to village rivalry is not supported by any material on the record. Reliance placed by the counsel for the petitioner on the tower location of the mobile phone does not advance his case, as the petitioner has stated in para 6 of the petition that *“the learned Sessions Court, Bathinda grant (sic granted) interim to the present petitioner on 30.07.2021 (but) due to communication gap, petitioner could not join the investigation because the mobile of the petitioner was misplaced somewhere, therefore, the petitioner could not communicate for joining the investigation”*. This fact alone distinguishes the case of the petitioner from that of co-accused, Pamma Singh @ Paramjeet Singh. In so far as co-accused, Suman and Charanjit Kaur are concerned, both of them were released on bail after their arrest primarily on the ground that the offence of rape being gender specific, both the said accused being women, they cannot be prosecuted for offence under Section 376, IPC even with the aid of Section 34 or 109, IPC.

Keeping in view the fact that the petitioner is accused of sexually assaulting the minor victim and the gravity of the alleged crime, this Court is of the opinion that custodial interrogation of the petitioner is

imperative to ascertain his role. The discretionary relief of bail in anticipation of arrest, cannot be granted to him.

Petition is dismissed.

Needless to mention, any observation made hereinabove shall not be construed to be an expression on the merits of the case.

(SUVIR SEHGAL)
JUDGE

25.01.2022
Kamal

Whether speaking/ reasoned	Yes/ No
Whether Reportable	Yes/ No