

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-5574-2023 (O&M)
Date of Decision : 07.07.2023

Rajni

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Navinder Jit Singh Dandiwal, Advocate for the petitioner.

Mr. M.S.Tiwana, AAG Punjab.

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ALKA SARIN, J. (Oral)

1. This is a petition under Section 438 of the Code of Criminal Procedure, 1973, for grant of anticipatory bail to the petitioner in FIR No.222 dated 17.10.2022 registered under Sections 376, 323, 201 of Indian Penal Code, 1860 and Section 6 of the Protection of Children From Sexual Offences Act, 2012, at Police Station City South, Moga, District Moga.

2. Learned counsel for the petitioner would contend that the allegations in the FIR are unbelievable and that as per the statement of the child, there was no sexual assault. It is further the contention that the petitioner has falsely been implicated in the present case. Learned counsel in support of his arguments has referred to the medical examination of the minor child.

3. *Per contra*, learned State counsel, on instructions from ASI Jaswant Singh, has contended that the DNA report has since been received wherein it has been stated that possibility of inter-course cannot be ruled out in the present case. It is further the contention that the child is 9 years of age and in her statement under Section 164 CrPC she has duly supported the case of the prosecution.

4. I have heard learned counsel for the parties.

5. In the present case the minor child is 09 years of age. The medico-legal report reveals as under :

<i>“Location of injury</i>	<i>Injury Details</i>	<i>Marked</i>	<i>Injury Number</i>
<i>Others</i>	<i>Old infected wound 2x2 cm Below the vagina right side Laterally</i>	<i>yes</i>	<i>4</i>
<i>Others</i>	<i>Old abrasions on both hands</i>	<i>yes</i>	<i>2</i>
<i>Scalp</i>	<i>Multiple small old infected Wounds on scalp; pus present</i>	<i>yes</i>	<i>1</i>
<i>Thighs, legs and Feet-left</i>	<i>Left-left leg pus oozing out, old infected wound”</i>	<i>yes</i>	<i>3</i>

6. In the statement under Section 164 CrPC, the minor child has stated that she was being tortured by the petitioner-herein. Prima facie her statement tallies with the injuries found on her body. The allegations are of very serious nature. The child, prima facie, seems to have suffered some kind of physical/sexual assault also involving her private part.

7. The minor child was in the custody of the petitioner. The mother of the minor child was called by the petitioner on the ground that the minor had fallen off the roof. When the complainant reached Moga she

found her daughter's condition was not good and hence she took her to Ludhiana where, on finding no improvement in her condition, she got her admitted to Civil Hospital Moga. On the basis of the statement of the victim under 164 CrPC the petitioner was nominated.

8. In view of the grave allegations and the medico-legal report, I do not find it to be fit case to grant anticipatory bail to the petitioner. Present petition is dismissed. Pending applications, if any, also stand disposed off.

July 07, 2023
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO