

207 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-17024-2023

Date of Decision:16.05.2023

JANGIR SINGH

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Piyush Sharma, Advocate  
for the petitioner.

Mr. Shiva Khurmi, AAG, Punjab  
assisted by ASI Pawan Kumar.

Ms. Tanisha, Advocate  
for respondent No.2.

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JAGMOHAN BANSAL, J. (Oral)

On 11.04.2023 following order was passed:

*“Through instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioner is seeking anticipatory bail in FIR No. 98 dated 5.5.2022, under Section 376 of IPC and Section 3 of POCSO Act, registered at Police Station, Sadar Ferozepur, District Ferozepur.*

*Learned counsel for the petitioner inter alia contends that contents of FIR which was recorded on the statement of mother of the prosecutrix are altogether different from statement of the prosecutrix recorded under Section 164 Cr.P.C. As per statement under Section 164 Cr.P.C., it was Surjit Singh (Sarpanch) who committed alleged offence of rape 3-4 times whereas as per FIR it was Jaspal Singh who forcibly entered house of the prosecutrix and*

*committed rape. As per FIR, two boys were standing outside the house and Jaspal Singh committed rape whereas as per statement under Section 164 Cr.P.C. Jaspal Singh introduced the prosecutrix to Surjit Singh and it was Surjit Singh who committed rape 3-4 times. Multiples cases are pending between Jaspal Singh and present petitioner and there is no allegation of commission of rape against the petitioner. The petitioner is alleged to be standing outside the house where alleged incident took place. Learned counsel further submits that co-accused Jaspal Singh has been granted concession of interim anticipatory bail by this Court. The petitioner is ready to join investigation and face proceedings. There is no possibility of flee from justice. The arrest would cause irreparable loss, mental agony, embarrassment and humiliation to petitioner as well entire family.*

*Notice of motion.*

*On the asking of Court, Mr. Amish Sharma, AAG, Punjab, who is present in court on advance notice, accepts notice on behalf of State-respondent.*

*As per FIR, it is Jaspal Singh who is the main accused and he has been granted concession of interim anticipatory bail vide order dated 2.9.2022 passed by this Court in CRM-M-39735 of 2022.*

*Having considered contents of the FIR, role attributed to the petitioner, gravity of offence, sentence prescribed for commission of alleged offence, arguments put forth by the petitioner and law enunciated by Hon'ble Supreme Court in **Thana Singh v. Central Bureau of Narcotics, (2013) 2 SCC 590, Arnab Manoranjan Goswami V. State of Maharashtra, (2021) 2 SCC 427, Satender Kumar Antil V. CBI (2022) 10 SCC 51, Siddharam Satlingappa Mhetre V. State of Maharashtra & Ors.,***

**2010 SCC OnLine SC 1375, Shri Gurbaksh Singh Sibbia V. State of Punjab (1980) 2 Supreme Court Cases 565** and on the ground of parity, this Court is of the *prima facie* opinion that petitioner deserves protection from arrest. Accordingly, at the first instance, the petitioner is directed to appear before investigating officer on 17.4.2023 and thereafter as directed by IO. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bonds to the satisfaction of investigating/arresting officer. The petitioner shall co-operate the investigating officer.

*If the arresting officer does not permit the petitioner to join the investigation, the petitioner would appear before the learned Illaqa Magistrate who would then summon the arresting officer and direct him to join the petitioner in investigation, in terms of the order of this Court.*

*Adjourned to 16.5.2023.*

*Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and trial court shall proceed without being prejudiced by observations of this Court.”*

Ms. Tanisha, Advocate has put in appearance on behalf of respondent No.2 and filed her power of attorney. The same is taken on record.

Learned State counsel submits that petitioner has already joined investigation and no custodial interrogation is required.

In view of the above, the petition is allowed and the interim protection granted to the petitioner vide order dated 11.04.2023 is made absolute subject to the conditions envisaged under Section 438(2) of

Cr.P.C

If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

( JAGMOHAN BANSAL )  
JUDGE

16.05.2023  
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|---------------------------|---------------|
| Whether speaking/reasoned | Yes/No        |
| <i>Whether Reportable</i> | <i>Yes/No</i> |