

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-19898-2023 (O&M)
Date of Decision : 06.07.2023

Vicky @ Gurcharan Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. G.S. Bhinder, Advocate for
Mr. S.K. Choudhary, Advocate for the petitioner.

Mr. Adhiraj Singh, AAG Punjab.

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ALKA SARIN, J. (Oral)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.100 dated 19.12.2022 registered under Sections 376, 506 of the Indian Penal Code, 1860 and Section 4 of The Protection of Children from Sexual Offences Act, 2012 at Police Station Ajitwal, District Moga.

2. On 16.05.2023 the following order was passed :

*“Status report by way of affidavit dated
14.05.2023 of Manjit Singh, P.P.S., Deputy
Superintendent of Police, Sub-Division, Nihal*

Singh Wala, District Moga filed on behalf of respondent-State is taken on record. Registry is directed to tag the same at appropriate place. On 21.04.2023, the 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. 100 dated 19.12.2022, under Sections 376, 506 IPC and Section 4 of POCSO Act, registered at Police Station, Ajitwal, District Moga.

Learned counsel for the petitioner inter alia contends that on account of family dispute, the complainant has lodged false and frivolous FIR against the petitioner. As per FIR, the alleged incident of rape took place in September' 2020 while the petitioner and prosecutrix were working in Verma Nursing Home. The petitioner left Verma Nursing Home in June' 2020 which belies entire story cooked by the prosecutrix. The FIR was registered on 19.12.2022 and MLR of brother of the petitioner was prepared in November' 2022. As per the FIR, the offence was committed in

September' 2020 whereas FIR came to be registered after two years i.e. in December' 2022.

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, returnable for 08.05.2023.

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. He seeks time to file status report qua authenticity of experience certificate issued by Verma Nursing Home as well as MLR.

In the meantime, the investigating officer shall refrain from taking any coercive step against the petitioner.”

Learned State counsel in the Court read statement of owner of Verma Hospital. The owner of Verma Hospital has categorically confirmed that petitioner worked in his hospital from 10.02.2007 to 05.06.2020 whereas as per prosecutrix alleged incident took place

in September' 2020 while petitioner was working in Verma Hospital.

Considering the aforesaid facts and circumstances, at the first instance, the petitioner is directed to appear before the Investigating Officer on 22.05.2023 at 10:00 AM and thereafter as directed by the Investigating Officer. 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 06.07.2023."

3. Learned counsel for the petitioner states that the petitioner has since joined investigation and has fully cooperated.

4. Learned counsel for the State, on instructions from HC Sandeep Kumar, states that the petitioner has since joined investigation and is fully

co-operating and that he is no longer required for further custodial interrogation as of now.

5. In view of the above, the order dated 16.05.2023 is made absolute. The petitioner shall, however, join investigation as and when called for. The petitioner shall also abide by all the terms and conditions as specified under Section 438(2) of the Code of Criminal Procedure, 1973.

6. Disposed off accordingly. Pending applications, if any, also stand disposed off.

06.07.2023
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(ALKA SARIN)
JUDGE

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