

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

208

CRM-M No.23788 of 2023

Date of Decision : 15.12.2023

Bau Ram @ Deva Masih @ Desa Masih

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Manbir Singh Basra, Advocate for the petitioner.

Mr. M.S. Tiwana, AAG Punjab.

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.6 dated 25.01.2023 under Section 376-DA of the Indian Penal Code, 1860 and Section 21/4 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Tibber, District Gurdaspur.

2. On 11.05.2023 the following order was passed :

“This is a petition for grant of pre-arrest bail under Section 438 Cr.PC to the petitioner in case FIR No.6 dated 25.01.2023 under Section 376-DA IPC and Section 21/4 of The Protection of Children from Sexual Offences Act, 2012 (for short, ‘POCSO Act’) registered at Police Station Tibber, District Gurdaspur.

Learned counsel for the petitioner contends that

there is no allegation of sexual assault against the petitioner, neither provisions of Section 376-DA IPC or Section 4 of the POCSO Act are attracted against him even if the allegations are taken to be true. The petitioner has been implicated only under Section 21 of the POCSO Act on the ground that he did not disclose the information about commission of sexual assault on the prosecutrix/victim when she was brought to his residence and stayed there over-night. No offence was committed against her there. The petitioner is paternal uncle/taya of the prosecutrix, and has been falsely implicated in the case. He is a middle aged man, having no criminal antecedents, and is willing to join and cooperate with the investigating agency.

Notice of motion.

Mr. Jashandeep Singh, Assistant Advocate General, Punjab, accepts notice on behalf of the respondent-State.

Adjourned to 28.09.2023.

In the meanwhile, the petitioner shall join the investigation as and when called upon to do so by the Investigating Officer, and in the event of arrest he shall be released on interim bail to the satisfaction of Arresting Officer. The petitioner shall also abide by the conditions of Section 438(2) Cr.P.C.”

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

4. Learned counsel for the State on instructions from ASI Balwinder Singh has stated that the petitioner has since joined investigation and fully cooperated and that he is no longer required for further custodial interrogation as of now.

5. In view of the above, the order dated 11.05.2023 is made absolute. The petitioner shall, however, join investigation as and when called. 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.

(ALKA SARIN)
JUDGE

15.12.2023
jk

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