

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

212

CRM-M-38249-2023 (O&M)

Date of Decision : 29.11.2023

BALRAM

.... Petitioner

VERSUS

STATE OF PUNJAB

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vishal Mittal, Advocate for the petitioner.

Mr. Harjinder Singh Sidhu, AAG Punjab.

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.48 dated 19.07.2023 under Section 354 of the Indian Penal Code, 1860 registered at Police Station Khui Khera, District Fazilka.

2. On 07.08.2023 the following order was passed :

“Present is first petition under Section 438 Cr.P.C. seeking grant of anticipatory bail to the petitioner in case FIR No.48 dated 19.07.2023 under Section 354 IPC registered at Police Station Khui Khera, District Fazilka, Punjab.

Brief facts of the case are that the present FIR was registered at the instance of prosecutrix whereby she stated that she was aged 19 years and was studying in

B.A. 2nd year at a college at Abohar. She further stated that on 16.07.2023, her cousin had come to her house and all her family members had gone to pay obeisance at Ronecha, Rajasthan. She further stated that at about 10 am, when she was present at the house, petitioner-Balram came to their house and asked whereabouts of her family members and the prosecutrix disclosed that they had gone to Rajasthan. Thereafter, the petitioner asked for hook of the tractor from prosecutrix. When the prosecutrix went inside the store room of her house to look for the hook, the petitioner followed her and while she was in the store, he slapped on her hip. Thereafter, he pinched her there to which the prosecutrix objected and stopped him from doing so. Then the petitioner ran away from the house. Thereafter, the prosecutrix disclosed about the facts to her cousin and they went to the house of the petitioner to complain about his act but the family members of the petitioner told the prosecutrix that they have failed to make the petitioner understand despite repeated efforts. Hence, the present FIR.

Learned counsel for the petitioner inter alia submits that the alleged incident is of 16.07.2023 at about 10 am, whereas the FIR has been registered after an unexplained delay of three days on 19.07.2023. Learned

counsel further submits that the present FIR is a counterblast to FIR No.25 dated 26.04.2018 registered by the petitioner against father of present complainant in NDPS case. It is submitted that the petitioner is an old aged man of 58 years and has grand children and throughout his life there has not been any such allegation let alone complaint against the petitioner. It is submitted that even as per version of the complainant as recorded in the FIR, the cousin of the complainant-prosecutrix was also present at the spot and it is therefore not probable that the petitioner could dare to do such an act in the presence of another person.

Notice of motion.

Mr. Madhu Sharma, AAG Punjab accepts notice on behalf of respondent-State. Mr. Inderjeet Singh Chawla, Advocate puts in appearance on behalf of the complainant-prosecutrix and files Memorandum of Appearance which is taken on record. Learned counsel for the complainant prosecutrix undertakes to file Power of Attorney within two weeks.

Adjourned to 29.11.2023.

In the meantime, the petitioner is directed to appear before the SHO/Investigating Officer to join investigation and in the event of his arrest, he shall be

released on bail on his furnishing bail bonds to the satisfaction of SHO/Investigating Agency subject to the following conditions as envisaged under Section 438(2) Cr.P.C.:-

i) that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required;

ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;

iii) that the petitioner shall not leave the country, without prior permission of the Court and shall surrender his passport, if any.

Meanwhile, learned State Counsel is directed to file an affidavit/status report as to the exact role of the petitioner along with details of pending FIRs, if any, on or before the next date of hearing.”

3. Learned counsel for the petitioner would contend that pursuant to the said order the petitioner has joined investigation and has fully cooperated.

4. Learned counsel for the State, on instructions from ASI Bhagwan Singh, has stated that the petitioner has since joined investigation

and has 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 07.08.2023 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.

29.11.2023

Aman Jain

(ALKA SARIN)
JUDGE

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