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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of decision : 13.04.2023

Gurdial Singh

..... Petitioner

V/S

State of Punjab

..... Respondent

CORAM : HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. H.S. Thiara, Advocate for the petitioner.
Mr. Kunwarbir Singh, Assistant A.G. Punjab.

AMARJOT BHATTI J. (ORAL)

The petitioner- Gurdial Singh has filed anticipatory bail petition under Section 438 Cr.P.C. in FIR No. 0019 dated 17.03.2022, under Section 452, 354-B, 34, 354 of IPC and Section 8, 12 of POCSO Act, registered at Police Station Mehatpur, District Jalandhar Rural.

The facts of the case are that the prosecutrix gave her statement that she is a student of Government Girls College. Her date of birth is 13.02.2005. On 16.03.2022, she was sleeping in her room, whereas, her family members were sleeping in the lobby. There is no door to the staircase. Suddenly, some boys came and caught hold of her. They started outraging her modesty. She raised alarm for help. Her brother Ravi switched on the light. Three boys tried to run away. Other family members of the prosecutrix caught hold of them and they were identified as Amritpal Singh, Kaka and Gurdial Singh. They used to tease her while she used to go to her college. With these allegations, present FIR has been registered.

Learned counsel for the petitioner argued that he is falsely implicated in this case. The other co-accused Amritpal Singh and Arvinder Singh alias Kaka faced trial in this FIR before Juvenile Justice Board, Jalandhar and they were acquitted vide judgment dated 28.09.2022. In the said case, the prosecutrix and

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other witnesses did not support the version, as a result, they were acquitted by the Juvenile Justice Board. The present petitioner was also named wrongly in the aforesaid FIR. He is ready to join the investigation and face the trial. It is prayed that *ad interim* bail already granted in his favour may be confirmed.

Bail application is opposed by learned counsel representing the State. Detailed status report is also filed. It is argued that the complainant levelled specific allegations. However, as per the orders of this Court, the petitioner joined investigation on 10.12.2022. It is admitted that the other co-accused were acquitted by the Juvenile Justice Board, Jalandhar. Challan qua the present petitioner is yet to be filed.

I have considered the arguments and have gone through the record carefully. I have also gone through the judgment of acquittal Annexure P-2 in which the statements of witnesses were recorded including the prosecutrix who did not support her version by alleging that she did not know the said persons and they had run away from the spot. She further claimed that due to night, she could not identify them. Even other witnesses examined in that case including mother, brother, sarpanch, ex-sarpanch were declared hostile. As referred above, in the status report, the present petitioner has also joined the investigation and he is ready to abide by the terms of bail order. No useful purpose would be served by sending him behind the bars. Therefore, the *ad interim* bail already granted in favour of the petitioner – Gurdial Singh vide order dated 31.10.2022 stands confirmed, subject to the conditions enshrined under Section 438 (2) Cr.P.C.

The petition is accordingly accepted.

(AMARJOT BHATTI)
JUDGE

13.04.2023

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