

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

CRM-M-47451-2023

Date of Decision: 11.10.2023

AJIJ

... PETITIONER

V/S

STATE OF HARYANA AND ANOTHER

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Lalit Kumar Yadav, Advocate, for the petitioner.

Mr. Surinder Kumar Dagar, DAG Haryana.

Ms. Meenu Sharma, Advocate for
Mr. Badal Malik, Advocate, for respondent No.2.

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VIVEK PURI, J. (ORAL)

1. The petitioner is seeking anticipatory bail in the case bearing FIR No. 257 dated 27.07.2023 under Sections 376(3)/506 IPC and Sections 4 and 21 of the POCSO Act registered at Police Station Civil Lines, Bhiwani, District Bhiwani.

2. Briefly, the FIR has been registered on the basis of the statement of the father of the victim alleging that on 18.06.2023, the victim who is his daughter was sent to the hut of Aamil, Contractor to bring '*iron gurmala*'. When she reached there, the petitioner caught hold of the victim and committed rape upon her. He also extended threats to kill her.

3. Learned counsel for the petitioner contends that there is a delay of 09 days in lodging the FIR. Furthermore, an amicable settlement has been effected as the father of the victim has sworn an affidavit to the effect that the FIR has been registered due to some misunderstanding. Moreover,

the co-accused, Aamil has been granted regular bail.

4. Learned State counsel has opposed the bail application on the score that there are categoric and specific allegations against the petitioner of having committed penetrative sexual assault upon the victim, who is aged about 14-1/2 years. The victim in her statement under Section 164 Cr.P.C., has levelled specific and categoric allegations against the petitioner.

5. It is significant to note that the victim is aged about 14-1/2 years and in her statement under Section 164 Cr.P.C., she has levelled specific and categoric allegations to the effect that the petitioner had committed penetrative sexual assault upon and her and also threatened to kill her in the event, she discloses the incident to anyone. Merely, because the father of the victim have sworn an affidavit to the effect that the case has been registered on account of some misunderstanding, cannot be termed to be a circumstance to conclude that the petitioner is being falsely implicated at this stage. It appears that an attempt is being made by the petitioner to win over the witnesses. The effect of delay in registration of the FIR is to be seen by the learned trial Court at the appropriate stage of trial. Moreover, the case of the co-accused Aamil who has been granted regular bail by the learned Special Court cannot be termed to be at parity with the petitioner. The co-accused has been implicated with regard to the commission of offence under Section 506 IPC and Section 21 of Protection of Children from Sexual Offences Act. The offence under Section 21 of Protection of Children from Sexual Offences Act is punishable with imprisonment which may extend to a period of 6 months. Even, otherwise the parameters for grant of anticipatory bail and regular bail are distinct and different. The anticipatory bail can be granted in the event exceptional

circumstances in favour of the accused are made out. The matter requires thorough probe and investigation.

6. Keeping in view the gravity of allegations and the entire circumstances emerging in the case, the custodial interrogation of the petitioner appears to be necessary for the proper and thorough investigation of the case and no exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner.

7. Dismissed.

11.10.2023

Janki

**(VIVEK PURI)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No