

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-51102-2022 (O&M)
Date of Decision : 01.08.2023

Gurpreet SinghPetitioner

VERSUS

State of PunjabRespondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Riffi Bala Birla, Advocate for the petitioner.

Mr. Adhiraj Singh, AAG Punjab.

Ms. Kiranjeet Kaur, Advocate for the complainant.

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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.146 dated 10.10.2022 registered under Sections 376 of the Indian Penal Code, 1860 and Section 4 of the Protection of Children From Sexual Offences Act, 2012 at Police Station City Fazilka, District Fazilka.

2. On 24.01.2023 the following order was passed :

“Prayer in the present petition is for grant of anticipatory bail to the petitioner in case FIR No.146 dated 10.10.2022 under Section 376 IPC and Section 4

of the POCSO Act, 2012, registered at Police Station City Fazilka, District Fazilka.

Learned counsel for the petitioner submits that in fact the petitioner and the complainant were in relationship and the complainant had always told the petitioner that she was major. In fact, she handed over her school certificates, which are annexed as Annexure P-5, which records her date of birth as 08.03.2004. On the strength of the said document, the petitioner and the complainant had approached this Court to seek protection vide CRWP No.9595 of 2022, which was granted on 04.10.2022. Although, the said order clearly recorded that the same shall not protect the petitioners from legal action for violation, if any, committed by them.

Learned State counsel has filed the short reply by way of affidavit of Deputy Superintendent of Police, Fazilka, dated 05.12.2022 and the copy of the birth certificate issued by the Chief Registrar (Birth and Death), Punjab, has also been annexed with the short reply, which are taken on record.

As per that date of birth certificate, the date of birth of the prosecutrix is 01.06.2005, whereas in her

school certificate, her date of birth is recorded as 08.03.2004. There is an unexplained delay in lodging of the FIR also. It is apparent that the petitioner and the prosecutrix were well known to each other. The petitioner is a young boy of more than 18 years and both the petitioner and the complainant were friendly to each other as they both were staying together.

Without commenting upon the merits of the case, the petitioner is directed to join investigation on 03.02.2023 at 10:00 AM, before the Investigating Officer and cooperate with the Investigating Agency even thereafter.

In the event of arrest, the petitioner shall be released on interim bail subject to furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer and the petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Adjourned to 10.04.2023.”

3. Learned counsel for the petitioner submits that the petitioner has since joined investigation and has fully cooperated.
4. Learned counsel for the State, on instructions from ASI Puran Singh, 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. Learned counsel has further pointed out that since the FSL Report was negative, a recommendation for cancellation of the present FIR has also been made.

5. In view of the above, the order dated 24.01.2023 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.

August 01, 2023
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(ALKA SARIN)
JUDGE

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