

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

105

CRM-M-63587-2023 (O&M)

Date of decision: 18.12.2023

KAUR SINGH

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM:- HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present:- Mr. Naresh Kaushik, Advocate and
Mr. Mukesh Kumar, Advocate
for the petitioner.

Mr. Amrik Singh Narwal, DAG, Haryana.

Mr. S.K. Verma, Advocate
for the complainant.

HARPREET KAUR JEEWAN , J. (ORAL)

1. The present petition has been filed under Section 438 Cr.P.C. seeking grant of anticipatory bail to the petitioner in FIR No.600 dated 30.10.2023 registered under Sections 323, 34, 354(1)(i), 452, 506 IPC and Section 10 of the POCSO Act, 2012 (Section 363 IPC and Section 8 of the POCSO Act,2012 added later on) at Police Station City Tohana, District Fatehabad.

2. Learned counsel for the petitioner submits that the petitioner is 72 years old man. He is residing in neighbourhood of the prosecutrix and is having a dispute with the Sarpanch of the village. He contends that the present case has been registered at the instance of Sarpanch as the family of the prosecutrix is taking the side of the Sarpanch. He further submits that even in the statement recorded under Section 164 Cr.P.C., the prosecutrix has not stated anything against the petitioner regarding sexual harassment.

3. On advance notice, Mr. Amrik Singh Narwal, DAG, Haryana appears on behalf of respondent-State and opposed the bail on the basis of copy of Psychological Evaluation Report dated 25.11.2023 and Counselling Report dated 31.10.2023 submitted by him.

4. Mr. S.K. Verma, Advocate has put in appearance on behalf of the complainant and submits that the prosecutrix is just 9 years old and she was disturbed when her statement under Section 164 Cr.P.C was recorded. She was kept in the police station for the whole day before she made statement under Section 164 Cr.P.C.

5. The case was registered at the instance of mother of the prosecutrix with the allegations that on 29.10.2023 at about 4:00 pm, the prosecutrix aged about 9 years, who is daughter of the complainant was playing outside her house. The petitioner who is neighbourer of the prosecutrix started abusing the minor and touched her inappropriately by putting his hand in her capri and also touched her private parts. She got frightened and came towards her mother and told entire incident to her. Thereafter, complainant went to the house of the petitioner and objected to the said act. However, the petitioner got angry and abused the complainant and gave slaps to her. On 30.10.2023 at about 7:30 am, the petitioner went to the house of the complainant and again threatened her of dire consequences and even threatened that she would be killed, if matter is reported to someone. On 30.10.2023, the matter was reported to the police and present FIR was registered. Statement of the prosecutrix was recorded by the Judicial Magistrate 1st Class, Fatehabad on 30.10.2023.

6. As per the reply to the anticipatory bail application which was filed before the Additional Sessions Judge, Fatehabad (Annexure P-2), the statement of

prosecutrix was recorded under Section 164 Cr.P.C. wherein she had stated that she was playing along with her brother and no one else was with them. They returned home after playing and at that time no one beat her and did any mischief to her. It was also reported that girl was given counselling in front of a female gender counselor and after that the prosecutrix was handed over to her guardian. It is further contended in the said reply that restatement of the girl was recorded on 10.11.2023 by the Investigator and an application under Section 164 Cr.P.C. was filed for recording her statement again. As per the order dated 20.11.2023 by the officer, further investigation was conducted. Statement of the prosecutrix and her parents were recorded under Section 161 Cr.P.C. and the spot was also videographed. Thereafter, offence under Section 8 of the POCSO Act, 2012 was added.

7. Though the prosecutrix has not given the complete details in her statement recorded on 30.10.2023 under Section 164 Cr.P.C. but the material facts at this stage shows that the prosecutrix is 9 years old and is a child who belongs to a vulnerable group. As per Counselling Report dated 31.10.2023 i.e. recorded after one day of the registration of the FIR, the psychology condition of the prosecutrix is recorded as disturbed. It is also recorded that she used to share her problems with her mother. Subsequently, a detailed Psychology Evaluation of the minor-victim was done by the Medical Officer, Civil Hospital, Fatehabad and a detailed report in the shape of a questionnaire which was put to the minor child by the Medical Officer has been incorporated in the said report. The prosecutrix has supported the incident and the levelled allegations against the petitioner regarding her sexual assault in the said "Psychological Report".

8. Keeping in view the fact that the prosecutrix is minor child of tender

age and serious allegations have been levelled against the petitioner, it is not a fit case to grant anticipatory bail to the petitioner. There is no proof of any dispute with the Sarpanch as alleged by the petitioner, moreover it is highly improbable that a child would have been used to take revenge by levelling allegations of sexual abuse.

- 9. In view of the above, the present petition stands dismissed.
- 10. All pending miscellaneous application(s), if any, stands disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

18.12.2023
P.Bhatt

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