



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

216

CRM-M-8321-2024 (O&M)
Date of decision: 12.08.2024

AJAY KUMAR ALIAS BUNTY

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. Abhayjeet Singh, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. Ravi Malhotra, Advocate with
Mr. Rohit Singh, Advocate and
Mr. Aman Godara, Advocate
for respondents No.2 and 3.

HARPREET KAUR JEEWAN , J.

1. The instant third petition has been filed under Section 438 Cr.P.C read with Section 482 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.75 dated 01.09.2023 registered under Sections 363 and 366-A IPC (Section 376 IPC and Section 4 of the POCSO Act, 2012 added later on) at Police Station Ladhuwal, Police Commissionerate, Ludhiana.

2. On 30.07.2024, this Court passed the following order:

‘Learned State counsel has informed that the statement of the prosecutrix under Section 164 Cr.P.C. was recorded on 03.10.2023. Thereafter again her statement was recorded on 11.10.2023 under Section 164 Cr.P.C. The medical examination of the prosecutrix was conducted on 14.10.2023 and the vaginal swabs were sent for FSL examination and for DNA test. As per the medical examination report, doctor has mentioned “hymen



torn and healed”. As per the ossification test of the prosecutrix, the estimated age is 17 to 20 years, accordingly the offence under Section 376 IPC and Section 4 of the POCSO Act, 2012 were added. The anticipatory bail application filed on behalf of the petitioner was dismissed by this Court in CRM-M-58809/2023 vide order dated 22.11.2023 (Annexure P-6). Thereafter, the complainant moved an application dated 03.01.2024 with the SHO leveling allegations that again her daughter/prosecutrix had been enticed away by the petitioner on 02.01.2024. Thereafter, the prosecutrix was recovered on 17.01.2024 from a motor room in fields but the petitioner succeeded in running away. Another statement under Section 164 Cr.P.C. was got recorded by the prosecutrix before the Area Magistrate on 18.01.2024.

Learned State counsel further contends that no such affidavit (Annexure P-4) was ever given to the police. Moreover, in the statements recorded in October, 2023 and January, 2024, the victim has levelled specific allegations against the petitioner and the said statements have been recorded after the alleged date of affidavit, as such the veracity of the said affidavit is doubtful.’

3. Learned counsel for the petitioner contends that the petitioner is a married individual having 3 children out of the wedlock. In the initial statement recorded under Section 164 Cr.P.C., the prosecutrix had given correct version, however subsequently another statement was recorded under Section 164 Cr.P.C. on 11.10.2023 and on the basis of the said subsequent statement, the petitioner is being falsely implicated in this case. He further contends that the prosecutrix has clarified in her affidavit dated 06.02.2024 (Annexure P-4) that the initial statement was correctly recorded. He submits that even the learned Additional Sessions Judge, Ludhiana had initially granted interim relief to the petitioner vide order dated 07.10.2023. The petitioner is still ready to join the investigation.

4. Learned State counsel has opposed the bail on the ground of gravity of allegations against the petitioner.

5. I have considered the aforesaid submissions and perused the paper-book.

6. The first petition under Section 438 Cr.P.C. was dismissed as withdrawn as per the order dated 08.11.2023 (Annexure P-5) passed by this Court.



The second petition was again filed on behalf of the petitioner for grant of anticipatory bail. The said second bail petition was dismissed on merits vide order dated 22.11.2023 (Annexure P-6) by this Court. At the time of dismissal of the second petition vide order dated 22.11.2023 (Annexure P-6), both the statements under Section 164 Cr.P.C. were already recorded. It was also noticed that the victim was sent to Nari Niketan. The petitioner is relative of the victim and the victim is a minor. The alleged history of sexual harassment was found recorded in the medical examination report of the victim. It was also observed that the Forensic Science Laboratory report regarding examination of the vaginal swabs was pending while dismissing the petition. It was observed that legality or illegality of both the statements recorded under Section 164 Cr.P.C. is matter of trial. However, petition was dismissed on the ground of serious allegations of sexual assault upon the minor victim by the petitioner.

- 7. There is no change of circumstance after the dismissal of the second bail petition.
- 8. Consequently, the present petition has no merits and is accordingly dismissed.
- 9. All pending miscellaneous application(s), if any, stands disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

12.08.2024

P.Bhatt

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