

**108-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-16534-2024 (O&M)
Date of Decision: 19.04.2024**

JASPREET SINGH

.....PETITIONER

Vs.

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Mohit Jaggi, Advocate,
for the petitioner.

Ms. Himani Arora, A.A.G., Punjab.

HARPREET KAUR JEEWAN J.

1. The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No. 130 dated 25.12.2021, registered at Police Station Raman, District Bathinda, under Sections 376, 363, 366 and 506 of the IPC read with Section 34 thereof and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 (for short '*the POCSO Act*').

2. As per the factual matrix, the FIR against the petitioner and his co-accused was registered on 25.12.2021, on the basis of statement suffered by the prosecutrix *inter alia* with the allegations that on 22.12.2021 at about 07:30 p.m. while her parents and siblings were watching TV in her room, she went outside to fetch cotton straw/wood, where the petitioner Jaspreet Singh and his friend Labh Singh came near her and after intimidating her forcibly took her on a motor cycle in the fields where she was sexually assaulted by the petitioner Jaspreet Singh while his co-accused Labh Singh stood as a

guard outside the room. Later in the morning, they made her board a train to Sirsa and she returned home in the evening. The prosecutrix was produced before the Judicial Magistrate on 30.12.2021 wherein she reiterated her version in the statement recorded under Section 164 Cr.P.C.. Labh Singh co-accused of the present petitioner was arrested. After completion of the investigation, final report '*challan*' under Section 173 (2) of the Code of Criminal Procedure, 1973 (for short '*the Code*') was presented before the competent Court. The prosecutrix was examined. Apart from the medical evidence, considering the report of DNA examination, PW-2 Dr. Diviya Gupta Jindal, gave the opinion that as per the said report human semen was though present, however, the same did not belong to Labh Singh (co-accused of the petitioner). By recording various reasons and giving the benefit of doubt, Labh Singh (co-accused of the petitioner) was acquitted.

2.1. The petitioner could not be arrested, as such, he was declared Proclaimed Offender, as per the order, dated 29.07.2022 (Annexure P-1) passed by the learned Additional Sessions Judge, Bathinda.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner did not appear before the trial Court as he was falsely implicated in the present case. Co-accused of the petitioner has already been acquitted by the trial Court, as per the judgment dated 08.12.2023 (Anenxure P-2). There is unexplained delay in lodging the present FIR. The petitioner is innocent and ready to surrender before the trial Court.

4. Learned counsel for the State has opposed the present petition, on the ground that the petitioner has been declared a Proclaimed Offender in the present FIR, vide order dated 29.07.2022 (Annexure P-1).

5. I have considered the aforesaid contentions.
6. There are allegations against the petitioner that he has sexually assaulted the prosecutrix who is a child-victim aged about 15 years. The co-accused of the petitioner who has been acquitted, as per the judgment dated 08.12.2023 (Annexure P-2) was given the benefit of doubt and there were no specific allegations of sexually abusing the prosecutrix by the co-accused of the petitioner. He was only alleged to have been standing as a guard at the time of the alleged commission of the act of sexual abuse by the petitioner. As such, the petitioner is not entitled to any benefit on account of the said judgment of acquittal passed by the trial Court. The petitioner has misused the process of law by not appearing despite receiving of proclamation notice and ultimately, he has been declared a Proclaimed Offender. There are serious allegations against the petitioner for sexually abusing the victim.
7. Keeping in view the age of the victim and other circumstances on record, no ground for anticipatory bail is made out.
8. Consequently, the present petition stands dismissed.
9. It is made clear that nothing observed hereinabove will be taken to be an observation on the actual merits of the case, which would be gone into by the learned trial Court wholly on the basis of evidence led/gathered before it.
10. Pending miscellaneous application (s), if any, shall also stand disposed of.

April 19, 2024
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(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether reportable	No