



CRM-M-23080-2024 (O&M) -1-

105 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23080-2024 (O&M)
Date of Decision: 08.05.2024

HARPREET SINGH

.....PETITIONER

Vs.

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present:- Mr. Pankaj Nanhera, Mr. Rahul Gautam and
Mr. Navneet Sharma, Advocates,
for the petitioner.

Mr. Amrik Singh Narwal, D.A.G. Haryana.

Mr. H.S. Dhindsa, Advocate,
for the complainant.

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. 180 dated, 23.04.2024, registered at Police Station Chandimandir, District Panchkula, under Sections 365 and 506 of the Indian Penal Code (for short '*the IPC*') and Section 8 of the Protection of Children from Sexual Offences, Act, 2012 (for short '*the POCSO Act*').

2. The allegations against the petitioners are that on 23.04.2024, at about 2:30-3:00 p.m., when the victim 'Dxxx' aged 17 years, was returning from the beauty parlour along with her female friend, a car (Swift) bearing No. HR-03-Q-5250, driven by the petitioner stopped near her and the petitioner forcibly dragged the victim in his car, teased her and then moved the car towards Nada Sahib.



CRM-M-23080-2024 (O&M) -2-

3. Learned counsel for the petitioner *inter alia* contends that the victim and the petitioner were in friendly relationship with each other. A 'Whats App' chat between the petitioner and the victim has been annexed as Annexure P-2 with the petition. Despite knowing the fact that the petitioner is married, the victim kept on calling and messaging the petitioner. The victim kept on pressurizing the petitioner to leave his wife and settle with her.

4. Learned counsel for the petitioner further contends that even there is no location of the alleged car near Nada Sahib. The petitioner has been falsely implicated in the FIR as he refused to solemnize marriage with the victim-complainant. The parties are resident of same village. The petitioner is ready to join the investigation.

5. Notice of motion.

6. Having received advance copy of the petition, Mr. Amrik Singh Narwal, D.A.G. Haryana, accepts notice on behalf of respondent No. 1-State and submits that in view of the gravity of the allegations and keeping in view the fact that the victim is minor and Section 8 of the POCSO Act is also involved, the petitioner does not deserve the concession of anticipatory bail.

7. Mr. H.S. Dhindsa, Advocate, accepts notice on behalf of the complainant-victim and has filed his power of attorney in Court today. The same is taken on record.

8. Learned counsel for the complainant submits that even earlier the petitioner was involved in the similar kind of incident but with the intervention of the respectable, the matter was compromised. Apart from this, an another FIR bearing No. 0484, dated 17.12.2021, under Sections 148, 149,



CRM-M-23080-2024 (O&M) -3-

323 and 506 of the IPC registered at Police Station Chandi Mandir, District Panchkula, is also pending against the petitioner. The petitioner is habitual of doing such kind of acts and therefore, he do not deserve the concession of anticipatory bail. A copy of the said FIR has been supplied by learned counsel for the complainant in Court today. The same is taken on record. The said fact has also been confirmed by learned State counsel.

9. He further denied any kind of relationship between the victim-complainant and the petitioner. He submits that there is no mobile number registered in the name of the victim-complainant and the 'Whats app' chat relied upon by the petitioner has no concern with the victim.

10. I have considered the aforesaid contentions.

11. The prosecutrix is minor. There is a history of another FIR having been registered against the petitioner in the same police station where the present FIR has been registered. The allegations against the petitioner are of Sexual Assault to a Child Cictim.

12. The Hon'ble Apex Court in Sumitha Pradeep Vs. Arun Kumar C.K. & Another; 2022(4) RCR (Criminal) 977 in a case containing allegations of Sexual Assault of a child victim set aside the impugned judgment and order granting anticipatory bail to the accused. The relevant portion of the observations by Hon'ble the Apex Court reads as under:-

XXXX

XXXX

XXXX

XXXX

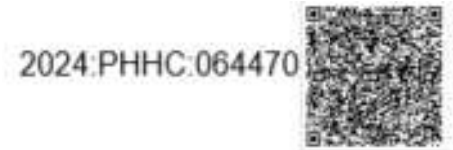
"12. In a case containing such serious allegations, the High Court ought not to have exercised its jurisdiction in granting protection against arrest, as the Investigating Officer deserves free-hand to take the investigation to its logical conclusion. It goes without saying that appearance before the Investigating Officer who, has



been prevented from subjecting Respondent No.1 to custodial interrogation, can hardly be fruitful to find out the prima facie substance in the allegations, which are of extreme serious in nature.

XXXX XXXX XXXX XXXX

16. We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”



13. Keeping in view the history of another case against the petitioner and finding *prima facie* case against the petitioner in terms of the statement of the prosecutrix recorded during investigation, no ground is made out to grant the concession of anticipatory bail.
14. Consequently, the petition stands dismissed.
15. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case
16. Pending miscellaneous application (s), if any, shall also stand disposed of.

May 08, 2024
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking

Whether reportable

Yes

No