



CRM-M-24306-2024

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205-3

CRM-M-24306-2024

Date of decision: 01.08.2024

Avtar Singh

....Petitioner

V/s

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. S.K. Yadav, Advocate for the petitioner.
Mr. Adhiraj Singh Thind, AAG Punjab.
Mr. Jagjit Singh, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 438 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for grant of anticipatory bail to the petitioner in case FIR No.0071 dated 04.03.2024 under Sections 354-A and 506 of IPC and Sections 9 and 10 of POCSO Act (later on added Sections 3, 4, 5, 6, 7, 8 of POCSO Act, 2012) registered at Police Station City Kapurthala, District Kapurthala.

2. On 15.05.2024 the following order was passed:-

"The instant petition has been filed under Section 438 of Cr.P.C. pre-arrest bail in case arising out of FIR No. 71 dated 04.03.204 initially registered under Sections 354 and 506 of IPC, 1860 read with Sections 9 and 10 of POCSO Act at Police Station City Kapurthala, District Kapurthala.

This FIR has been registered on the basis of statement recorded by the complainant 'B' (name withheld) on 04.03.2024 alleging therein that on 27.02.2024 she along with her minor grand daughter 'A' (name withheld) had gone to the clinic of accused Rajender Kumar who is a doctor for treatment for backache of her grand daughter. She had to come



out of the clinic, due to some work. Sometime thereafter, her grand daughter called her and disclosed to her that on the pretext of doing a check up, Dr. Rajender sexually harassed her by touching sensitive parts of her body inappropriately. The complainant confronted the accused Rajender about this fact and he rather threatened her to face dire consequences, if she disclosed about the fact to anyone and on hearing so, she had come back out of fear. Then on 07.03.2024, the statement of the victim under Section 164 of Cr.P.C. was got recorded before the Magistrate, wherein while reiterating the allegations with regard to her going to clinic of Dr. Rajender on 27.02.2024 and about being harassed by him, she further stated that the accused Dr. Rajender had inserted her fingers in her private parts and when she started screaming, he had closed her mouth with his hands. He had then called the present petitioner, who too had sexually harassed the victim by touching her breasts and then by inserting his fingers in her private parts. Then she had again shouted and her grand-mother had come. On this statement, offences under Sections 376 of IPC and 4, 6 and 8 of POCSO Act were added. Investigation is under way. The petitioner had filed an application for pre-arrest bail before the Court of learned Special Court, Kapurthala, which was dismissed vide order dated 07.05.2024.

It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He was not named in the FIR and has been involved in this case subsequently, after making due deliberations and concoctions by the family of the victim due to the fact that a civil litigation is going on between the parties and an appeal filed by the father of the petitioner against the family of the victim is pending before this Court. It is also submitted that the petitioner is a 59 years of old person, who had nothing to do with the occurrence. It is also argued that the relatives of the complainant have been calling the relatives of the petitioner thereby giving offer to withdraw the FIR in lieu of withdrawal of a civil appeal filed by father of the petitioner and are also raising demand of money. He has brought the attention of this Court to Annexure P-4, which is a pen drive containing the video recorded conversation between some relatives/acquaintances of the petitioner and the complainant with regard to the offer so made by the petitioner. It is further submitted that the custodial interrogation of the petitioner is not required. He is ready to join investigation and hence, it is urged that the petition deserves to be allowed.



CRM-M-24306-2024

3

Notice of motion.

At this stage, on oral request of learned counsel for the petitioner, the complainant is impleaded as respondent No.2 in this petition.

Amended memo of parties be filed.

Learned State counsel who has advance notice of the petition seeks time to file status report.

At this stage, Mr. Jagjit Singh, Advocate has put in appearance on behalf of the respondent No.2/complainant.

Adjourned to 01.08.2024 for filing status report by learned State counsel and reply and power of attorney on behalf of respondent No.2.

In the meantime, the petitioner is directed to appear before the Investigating/Arresting Officer to join investigation within one week or as and when required. In the event of his arrest, the Investigating/Arresting Officer shall release the petitioner on interim bail on furnishing personal/surety bonds to his/her satisfaction. The petitioner(s) shall also abide by the conditions as envisaged under Section 438(2) Cr.P.C.”

3. Learned State counsel, on instructions from ASI Sukhwinder Singh, has stated that pursuant to the order dated 15.05.2024, the petitioner has joined investigation and is no longer required for custodial interrogation. Learned State counsel has further submitted that challan (report under Section 173 of Cr.P.C., 1973) also stands presented.

4. Learned counsel appearing for respondent No.2-complainant has vociferously opposed the grant of anticipatory bail to the petitioner by arguing that the allegations made against the petitioner are serious in nature and hence he ought not be extended the concession of anticipatory bail.

5. In view of the above, the interim order dated 15.05.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.



6. This order should not be treated as “blanket” order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned ibid and will not operate in respect of any other incident that involves commission of an offence.
7. Liberty is reserved in favour of State/complainant to move for cancellation/recall of this order in case the petitioner violates any condition stipulated under Section 438(2) Cr.P.C., 1973 or upon showing any other sufficient cause.
8. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

August 01, 2024
Ajay

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