



CRM-M-41308-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(101)

CRM-M-41308-2024

Date of decision:- 03.09.2024

Sandeep Singh @ Deep Sandy

...Petitioner

Versus

The State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Satveer Singh Badal, Advocate, with
Mr. Chandan Singh, Advocate
for the petitioner.

Ms. Amrita Garg, AAG, Punjab.

...

SUVIR SEHGAL, J. (Oral)

1. This is the second petition filed under Section 482 of Bharatiya
Nagarik Suraksha Sanhita, 2023, for grant of anticipatory bail in:-

FIR No.	Dated	Police Station	Section(s)
78	25.03.2021	Lambi, District Sri Muktsar Sahib, Punjab.	363, 366-A, 342, 376-DA, IPC, and Section 6 of Protection of Children from Sexual Offences Act, 2012 (for short “POCSO Act”).

2. Version of the prosecution is that FIR, Annexure P-1, was lodged on
the statement of a 15-year old girl (for short “the prosecutrix”) on the allegation

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that she is 6th class pass, and her father and her brother are working at Sonu Chicken Centre. Her mother is a street-vendor. About 8-9 months earlier, when she had gone to make some purchases from the market, she met a boy, who enquired about her name and started talking to her. He followed her till her home and gave his mobile number. A few days later, when she was alone, Sandeep Singh @ Deep Sandy, present petitioner, came to her house and gave her a mobile with SIM Card. They used to talk with each other on the phone. Sandeep used to talk about getting married to her and told her that he is working in a hospital. On his asking, on 16.03.2021, at about 06:00 a.m., when her family members were sleeping, she went to bus stand, Mandi Killianwali, from where, Sandeep took her to Jalandhar. He kept her in a room from 16.03.2021 to 20.03.2021, where, along with his friends, Rahul, Ranjit, Santosh, Lambu, Sandeep @ Sayian, Billa, Santosh's brother and they sexually assaulted her. Sandeep's friends worked in nearby shops at bus stand, Mandi Killianwali. On the morning of 20.03.2021, when the accused had gone for their work, on getting an opportunity, she escaped, and called her mother, who came and took her home. She confided in her parents, who took her to a lawyer and presented her before a Court.

3. Counsel submits that petitioner is innocent and has been falsely framed. He submits that after the first petition seeking anticipatory bail was rejected by this Court, vide order dated 13.01.2022, Annexure P-5, petitioner submitted a representation dated 11.02.2022, Annexure P-6, for fair and independent investigation. He submits that some of the co-accused have faced trial and have been acquitted by judgment dated 27.02.2024, Annexure P-4,



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passed by the learned Additional Sessions Judge, Sri Muktsar Sahib, and, therefore, the petitioner deserves to be granted the concession of anticipatory bail.

4. On the other hand, State counsel, upon instructions, has opposed the petition by submitting that the second petition for the same relief is not maintainable. She has referred to the allegations levelled in the FIR, Annexure P-1, as well as the statement of the prosecutrix, to submit that the petitioner is the main accused. She submits that the Deoxyribonucleic Acid (DNA) report dated 07.09.2022, has been received, which shows that human semen has been found out on the garments of the prosecutrix. She asserts that the involvement of the petitioner in the heinous offence is evident.

5. I have heard counsel for the parties and considered their respective submissions.

6. The prosecutrix has levelled categoric allegations against the petitioner and has named him in FIR, Annexure P-1, as well as in her statement recorded under Section 164, Cr.P.C. In her testimony recorded before the Court in trial against the co-accused, she has stood firm on the incident. Three co-accused, who had faced trial, have been acquitted by the Trial Court by judgment, Annexure P-4, as the prosecutrix failed to identify them. In so far as the petitioner is concerned, he cannot be given the benefit of the said judgment, as he is on the run. His previous petition was declined by this Court in January, 2022, however, he has not joined the investigation, and rather, 2½ years later, he has preferred the instant petition, which is not maintainable. It has been held by the Hon'ble Supreme Court in ***Hari Singh Mann Versus Harbhajan Singh***



Bajwa (2001) 1 SCC 169; State of Madhya Pradesh Versus Kajad 2001 SCC (Criminal) 1520 and State of Maharashtra Versus Capt. Buddhikota Subha Rao 1989 Supl. (2) SCC 605, that filing of subsequent petition seeking grant of anticipatory bail amounts to seeking review of the earlier order, which is not permissible in criminal law. In *Md. Shamim Khan Versus The State of Jharkhand, 2022 (1) Cri CC 475*, Supreme Court has deprecated the practice of filing second application under Section 438, Cr.P.C.

7. Considering the nature of allegations levelled against the petitioner, the gravity of offence allegedly committed by him and the incriminating material in the possession of the prosecution, this Court is not inclined to accept the prayer made in the petition, which is hereby dismissed.

8. Needless to mention, it is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

(SUVIR SEHGAL)
JUDGE

03.09.2024
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes