

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

203

CRM-M-41086-2023 (O&M)
Date of decision: 16.04.2024

Jagraj Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. T. S. Grewal, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J.

1. Through the instant petition, filed under Section 438 read with Section 482 of Code of Criminal Procedure, 1973, the petitioner seeks anticipatory bail in case FIR No. 237 dated 03.11.2022, registered under Sections 376, 506 of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (*for short 'POCSO Act'*) at Police Station City Sangrur, whereby Section 376 IPC and Section 6 of POCSO Act were deleted and Section 354-A IPC and Section 8 of POCSO Act were added later in the initial challan and Section 376 IPC and Section 4 of POCSO Act were added in the supplementary challan.
2. Brief facts relevant for the purpose of disposal of the present petition are that the aforementioned FIR had been registered on the basis of the statement recorded by the complainant 'H' (*name withheld*) alleging therein that the victim, who was his daughter, studying in 11th Class, had been making complaints of having abdominal pain for the last 2-3 days. On

making probe, she disclosed that on 28.10.2022, she was made by the petitioner, who was her physical education teacher, to sit in his car on the pretext of making some important conversation with her. He had taken her to some fields and had forced himself upon her and after taking her mobile phone and extending threats to her, had dropped her near the bus stand on the same day. Initially, a case under Section 376 and 506 of IPC and Section 6 of the POCSO Act was registered. Investigation proceedings were initiated. During the course of investigation, offences under Section 376 IPC and Section 6 of the POCSO Act were deleted and offences under Section 354-A IPC and Section 8 of POCSO Act were added. The petitioner was arrested and was extended benefit of bail. After completion of necessary investigation, challan was presented in the Court and some prosecution witnesses including victim, her father and uncle were examined. During the course of trial, a supplementary challan under Section 173(8) Cr.P.C. was presented against the petitioner, on the basis of which, the trial Court passed an order dated 01.03.2023 for framing charges under Section 4 of POCSO Act and Section 376 IPC against the petitioner. Apprehending his arrest, the petitioner has filed the present petition.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. There was delay of 06 days in reporting the matter to police. Offences under Section 376 IPC and Section 6 of POCSO Act were deleted during investigation after conducting thorough investigation and he had been extended benefit of regular bail for commission of offences, for which he had been challaned and chargesheeted subsequently. In their respective sworn depositions recorded before the trial Court, neither the

victim nor the complainant or her father has supported the version of the prosecution and have not implicated him in the allegations, which had been levelled against him. It is submitted that he had challenged the order dated 01.03.2023, as passed by the trial Court, by filing a revision petition before this Court and though the same had been dismissed on 15.04.2024 but since he has not misused the concession of bail previously granted to him in this case, his custodial interrogation is not required nor any recovery is to be effected from him, therefore, it is urged that the petitioner deserves to be given concession of pre-arrest bail.

4. *Per contra*, learned State counsel has argued that there are serious allegations against the petitioner. Offences under Sections 376 IPC and Section 6 of POCSO Act were deleted previously as no forensic evidence had come on record to connect the petitioner with the commission of offence of rape/penetrative sexual assault upon the prosecutrix. However, the same had been received after filing of the challan and that is why supplementary challan had been filed. It is argued that keeping in view the gravity of offences under Section 4 of POCSO Act and Section 376 of IPC, the petitioner is not entitled to get concession of pre-arrest bail, hence, the present petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also perused the material placed on record carefully.

6. It has come on record that the petitioner was already facing trial for commission of offences punishable under Section 354-A IPC and Section 8 of POCSO Act in this case and was extended benefit of regular bail. There is nothing on record to suggest that he has misused the concession of regular

bail, at any stage of trial or has committed any such act, which amounted to violation of terms thereof. It has also come on record that neither the victim nor her parents have implicated the petitioner in commission of any offence whatsoever. Rather, in their sworn depositions, copies of which have been placed on record as Annexures P-11 to P-13 and which have been recorded before filing of supplementary challan under Section 4 of POCSO Act and Section 376 of IPC, they have categorically deposed that the petitioner had not committed any wrong act whatsoever with the prosecutrix. In such circumstances, in my considered opinion, no useful purpose would be served by detaining the petitioner in custody. More so, challan has already been presented and even additional charges are also ordered to be framed, therefore, even custodial interrogation of the petitioner is not required. As such, it is a fit case for exercising powers under Section 438 Cr.P.C.

7. Accordingly, the present petition is allowed and the petitioner is granted concession of pre-arrest bail, subject to his surrendering before the trial Court on or before the date fixed before it and on furnishing fresh personal/surety bonds to its satisfaction qua commission of offences punishable under Section 376 IPC and Section 4 of POCSO Act.

16.04.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes