

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH
CRM-M-41594-2023
Date of decision: 10th April, 2024

Dharaminderpal Singh @ Billa

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Mohd Yousaf, Advocate for the petitioner.
Mr. A.S. Samra, AAG, Punjab.
Mr. S.S. Gill, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 438 of Cr.P.C.
seeking anticipatory bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
174	05.10.2022	Majitha, District Amritsar	354, 506, 202, 120-B of Indian Penal Code, 1860 (for short ‘IPC’) and Sections 8 and 17 of POCSO Act, 2012 (sections 376-D and 511 of IPC and Sections 4 and 7 of the POCSO Act added later on)

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of statement recorded by the prosecutrix ‘L’ (name withheld) alleging therein that the co-accused Daljeet Kaur who is her mother was having illicit relationship with the present petitioner and had started living with him. She had also brought her along with herself. A male child was delivered by her mother about one year back. She alleged that from about last six months, the petitioner had started keeping an evil eye upon her and also started

committing indecent acts with her. She had disclosed about this fact to her mother but instead of doing anything, she threatened her not to disclose about these facts to anyone. On 11.08.2022, the petitioner had molested her even in the presence of her mother and had even torn off her shirt. She managed to leave the house of her mother on the same day and went to her father and had narrated the incident to him. She also disclosed that two acquaintances of the petitioner namely Pritpal Singh and Rajvir Singh (co-accused) had also committed indecent acts with her. She prayed for taking action against them. Offences under Sections 376-D read with Section 511 of IPC and Sections 4, 8 and 17 of POCSO Act were added later on. The victim was medically examined. Her statement under Section 164 of Cr.P.C. was recorded. The co-accused were arrested, however, the present petitioner could not be arrested. He had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Fast Track Court, Amritsar which was dismissed vide order dated 21.04.2023.

3. The present petition has been filed by the petitioner on the grounds and it is submitted by learned counsel for the petitioner that he has been falsely implicated in this case. Infact, the FIR of this case was a counter blast to the FIR No. 157 dated 10.09.2022 lodged by mother of the prosecutrix against the boy-friend of the prosecutrix. The prosecutrix is residing with her boy-friend and this action of the prosecutrix had been opposed by her mother as well as the petitioner due to which she has falsely implicated him in this case. The FIR lodged by the mother of the prosecutrix had been lodged about 25 days before lodging of the FIR of this case which

proves the motive on the part of the prosecutrix to falsely implicate the petitioner. He has already joined the investigation. In the trial which is going on as against the co-accused, the prosecutrix has exonerated the co-accused Pritpal Singh as well as Rajvir Singh @ Raju saying that she did not even identify them nor had she recorded any statement against them. She is also shown to have stated that she never recorded any statement to the police that the present petitioner had committed any obscene act with her in the presence of her mother but by contradicting her statement is further shown to have stated that petitioner had done obscene acts with her, however, her mother or co-accused did not know about this fact.

4. The petitioner has since joined the investigation. His custodial interrogation is no more required. The allegations of committing gang rape, any attempt to commit rape or act of penetrative sexual assault upon the prosecutrix are not against the petitioner but against the co-accused Pritpal Singh and Rajvir Singh who have been given clean chit by the prosecutrix in her sworn deposition recorded during the trial. Keeping all these facts and circumstances into consideration, but without meaning to make any comments upon the merits of the case, the order dated 10.10.2023, whereby the granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

[MANISHA BATRA]
JUDGE

10th April, 2024

Parveen Sharma	1. Whether speaking/ reasoned	:	Yes
	2. Whether reportable	:	Yes