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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42767-2024 (O&M)
Date of decision: 03.10.2024

Yuvraj

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rahul Vats, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

Mr. Jai Vir Yadav, Sr. Advocate with
Mr. Nitish Sharma, Advocate and
Ms. Parul Sharma, Advocate
for the complainant.

HARPREET SINGH BRAR, J. (ORAL)

1. This petition has been filed under Section 482 of Bharatiya
Nagarik Suraksha Sanhita, 2023 seeking anticipatory bail to the petitioner
in case bearing FIR No.30 dated 12.06.2024 under Sections 354-A, 354-D,
34 of the Indian Penal Code, 1860 (for short 'IPC') (Sections 376 (2)(n) of
IPC and Section 6 of the Protection of Children from Sexual Offences Act,
2012 were added later on 26.06.2024), registered at Police Station Women,



Narnaul, District Narnaul.

2. On 02.09.2024, the following order was passed:-

“The present petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023. seeking anticipatory bail to the petitioner in case bearing FIR No.30 dated 12.06.2024 under Sections 354-A/354-D/34 of IPC (Sections 376 (2)(n) of IPC and Section 6 of POCSO Act were added later on 26.06.2024) registered at Police Station Women, Narnaul, District Narnaul (Annexure P-1).

Learned counsel for the petitioner inter alia contends that with regard to the incident which has taken place on 12.06.2024, there are two FIRs, out of which, one FIR No.30 registered against the petitioner on 12.06.2024 and the other FIR was registered on 14.06.2024 on the complaint made by the petitioner. The entire incident was recorded in a CCTV camera installed in the village near the place of incident which is already in the custody of the police and the footage clearly shows that there is no incident of breaching the threshold of the offence under Sections 354-A/354-D of IPC had taken place. In the initial complaint, there are no allegations with regard to the offences under Section 376(2) (n) of IPC and Section 6 of POCSO Act. The petitioner sustained multiple injuries and was medico legally examined. He further submits that thereafter, due to deliberations, the allegations with regard to sexual assault of the prosecutrix were made when her statement was recorded under Section 164 Cr.P.C. The petitioner as well as the prosecutrix both are major now and the alleged incident is shown to have taken place two years back, when petitioner was also a minor and

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further contends that petitioner and prosecutrix were in a consensual relationship which is clearly discernible from Annexure P-3.

Notice of motion.

On the asking of the Court, Ms. Geeta Sharma, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent-State.

Mr. Jai Vir Yadav, Senior Advocate with Mr. Aman Gautam, Advocate and Mr. Gursimrat Singh Sandhu, Advocate puts in appearance and per contra, opposes the prayer made by learned counsel for the petitioner on the ground that the consent is immaterial as at the time of the alleged incident, the prosecutrix was minor. Moreover, on the basis of these photographs, the petitioner has blackmailed the prosecutrix and taken her to hotel on the basis of fake IDs, as such, custodial interrogation of the petitioner is necessary.

Having heard learned counsel for the parties and keeping in view the fact that on the alleged date of incident even petitioner was less than 18 years of age and there is a version and cross-version of the incident.

*In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in **Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi 2020 (1) RCR (Criminal) 833**, at the first instance, the petitioner is directed to appear before the Investigating Officer within two weeks from today and on his doing so or in the event of arrest,*



the petitioner shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner shall cooperate with the Investigating/Arresting Officer and abide by the conditions as provided under Section 438 (2) Cr.P.C.

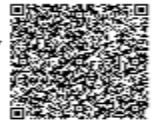
If the Investigating/Arresting Officer does not permit the petitioner to join the investigation, the petitioner would appear before the Illaqa Magistrate, who would then summon the Investigating/Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 03.10.2024.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.”

3. Learned senior counsel for the complainant opposes the prayer made by the petitioner on the ground that the petitioner has wrongly stated at the time of passing of interim order that he was minor at the time of incident, which is factually incorrect. Even at the time of incident, he was major and his age has been indicated in the impugned order as 21 years.

4. In rebuttal, learned counsel for the petitioner submits that inadvertently, age has been indicated less. In fact, the petitioner is young boy of 21 years of age and he has clean antecedents and is not involved in any other case and photographs (Annexure P-3) clearly indicate that the petitioner and prosecutrix were in consensual relationship and there is a version and cross-version with regard to the incident, which took place on



12.06.2024 and the offences with regard to Section 376 of IPC and Section 6 of POCSO Act have been added later on 26.06.2024.

5. Learned State counsel, on instructions from the Investigating Officer, informs the Court that the petitioner has joined the investigation and his custodial interrogation is not required.

6. I have heard learned counsel for the parties and perused the record of the case file with their able assistance.

7. In view the above, present petition is allowed. Without commenting upon the merits of the case lest it may prejudice the case of either of the parties, considering the fact that the petitioner has already joined the investigation and is not required for further custodial interrogation, the order order dated 02.09.2024 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 438(2) Cr.P.C.

8. The petition stands disposed of.

[HARPREET SINGH BRAR]
JUDGE

03.10.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No