313 IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-50316-2023
Date of decision: 11th March, 2024

Amandeep Singh

...Petitioner(s)

Versus

Union Territory of Chandigarh

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ankur Malik, Advocate for the petitioner.

Ms. Vasundhra Dalal Anand, Addl. PP, U.T., Chandigarh.

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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.	Police Station	Sections
108	East Sector 26, Chandigarh	354-A(I) (i) of Indian Penal Code, 1860 (for short 'IPC') and Sections 8 and 10 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act')

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 a complaint dated 17.07.2023 received from the office of District Child Protection Unit, reporting that the victim (name withheld) was evaluated in Child Psychiatry OPD, PGI, Chandigarh, on the basis of which a case summary was issued reporting that the victim had been sexually abused by

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her neighbourer. Request had been made for registration of FIR against the present petitioner. On receipt of this report, the victim was contacted by the officials of the concerned police station, who recorded her statement that the petitioner alongwith his wife and child was living in her neighbourhood and their families had very good relations. In the month of June, 2022, the wife and child of the petitioner had gone out of station and her grandmother sent her to the house of petitioner as she had to prepare dinner for the petitioner on request of his wife. She alleged that on reaching the house of the petitioner, she found him while consuming liquor. The petitioner caught hold of her hands, pushed her towards the wall and while saying that he liked her and as she looked very tired, they could kiss each other. He also stated that he would bear all her expenses. The victim while pushing him away rushed towards her house and out of fear, she did not disclose about the incident to anybody. She alleged that she started remaining depressed and was taken for treatment by her family members at PGI, Chandigarh and then she had disclosed the incident that had happened with her. On the basis of her Statement, the aforementioned FIR was registered. Investigation proceedings were initiated. The petitioner had been extended benefit of pre arrest bail vide order dated 06.10.2023. He joined the investigation and presently, he is facing trial for commission of the aforementioned offences.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. He has already joined the investigation and has not

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misused the concession of the same. His custodial interrogation is not required. No recovery is to be effected from him. Infact, previously, he had been residing in the neighbourhood of the victim. Some altercation had started taking place between the family of the victim and himself due to which he had shifted somewhere else. On 26.06.2023, he had gone in the same locality to help Pawan Kumar to vacate his accommodation, who was living in the neighbourhood of the victim. The elder sister of the victim had started shouting on him as he had parked his car on the side of the road. Thereafter, the entire family of the victim had picked up a fight with him and had extended beatings to the petitioner. The matter was got pacified. He had gone to police post to report the matter and a *kalandra* under sections 107 and 151 of Cr.P.C. was registered as the family of the victim had also gone there to complain against the petitioner. It is argued that infact the present FIR was lodged by the victim by hatching a conspiracy with her family after delay of one year and three months. With these broad submissions, it is urged that the petition deserves to be allowed.

4. As per the status report, a complaint had been received by the police from the District Child Protection Unit (DCPU) on 17.07.2023, alleging that the victim had been sexually abused and physically assaulted by the petitioner in June, 2022. She did not report about the incident to her family members but started suffering from psychological problems and that is why she had been taken to Psychiatry Department, wherein she disclosed about these facts. It is also submitted that in her statement recorded under

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Sections 164 and 161 of Cr.P.C. as well as in the statement recorded before the Court, the victim has supported the version of the prosecution. It is submitted that there are serious allegations against the petitioner. The fact that he has joined the investigation does not make him entitled to seek benefit of bail. Therefore, it is argued that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The petitioner who was admittedly residing in the neighbourhood of the minor victim and was having domestic relationship with her family is alleged to have sexually assaulted the victim as in the month of June, 2022 thereby committing the offence of aggravated sexual assault upon her. So far as the delay of lodging of the FIR is concerned, there is no hesitation in the mind of this Court to say that the victim was apparently so much shocked with the act which was allegedly done by the petitioner with her that she went into depression to such an extent that she had to seek counselling from the psychiatry department. It is only after the revelations made by her before the experts of the psychiatry department that it came to the notice of her family that she had been sexually abused by the petitioner. As such, it cannot be stated that there was any intentional delay on the part of the victim to report the matter to the police. The victim has already recorded her sworn testimony before the learned trial Court wherein

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she has reiterated the allegations as levelled at the time of lodging of FIR and has also disclosed that it was only during the course of counselling done by doctor of PGIMER, Chandigarh that she could muster the courage to disclose about the entire incident which was weighing so heavily in her mind that she was in depression. Only because of the fact that the petitioner has since joined the investigation and his custodial interrogation might not be required, no good ground to grant anticipatory bail is made out. It is well settled proposition of law that the first and foremost thing that the Court hearing an application for grant of pre-arrest bail should consider is the *prima facie* case put up against the accused. Nature of offence should be looked into alongwith severity of the punishment thereafter. The allegations against the petitioner are serious in nature. The petitioner has failed to show any such sparing and exceptional circumstance thereby entitling him to seek concession of anticipatory bail which even as per the well settled proposition of law should not be granted lightly and in a routine manner. The Court is required to see that an order of anticipatory bail should not operate as inroad in the normal legal procedure of criminal cases by the trial Court.

7. In the light of the aforesaid reasons and without commenting further on merits, lest it may prejudice the case of either side during the course of trial of the main case, as there is no merit, therefore, the instant petition for pre-arrest bail filed by the petitioner is hereby dismissed as such in obtaining circumstances of the case.

8. Needless to mention that nothing observed, hereinabove, would

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reflect, on the merits of the case, in any manner as the same has been recorded for the limited purpose of deciding the present petition for anticipatory bail.

9. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

11th March, 2024
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1. Whether speaking/ reasoned : *Yes / No*
2. Whether reportable : *Yes / No*

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