

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.62860 of 2023
Date of decision: 10.01.2024

Krishan Malik

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sunny Tyagi, Advocate,
for the petitioner.

Mr. Arjun Lakhanpal, Addl. AG, Haryana.
for the respondent-State.

Mr. Balwan Singh, Advocate,
for the complainant.

MANISHA BATRA, J.

1. The present petition under Section 438 of Code of Criminal Procedure has been filed by the petitioner seeking anticipatory bail in case bearing FIR No.469 dated 05.11.2023, registered under Section 12 of Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”) and Section 354-A of IPC at Police Station Israna, District Panipat on the basis of a written complaint filed by the complainant Sunil Kumar alleging therein that he was running a shop at Bus Stand Village Buana Lakhu. On the same day, his 11 year old daughter “A” (name withheld) had come to his shop after attending her school. While leaving her there, he had gone towards his house for some work, when the petitioner reached there under the influence of liquor. He caught hold of hands of his

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daughter and pulled her towards him and showed his private parts to her. In the meanwhile, witness Rajesh had reached there and on seeing whom, the petitioner had fled away. After registration of FIR, investigation proceedings are being initiated and are going on.

2. It is submitted by learned counsel for the petitioner that he has been falsely implicated in this case. Immediately after lodging of FIR, the complainant and PW-Rajesh Kumar themselves have sworn affidavits in his favour submitting that it was due to some misunderstanding that this FIR was lodged against the petitioner. These affidavits have been submitted before the police authorities also and representations for cancellation of FIR have also been made by the complainant. His custodial interrogation is not required. He is ready to join the investigation. Therefore, it is argued that the petition deserves to be allowed.

3. Status report has been filed by respondent No.1-State as per which, in her statement as recorded under Section 164 of CR.P.C., the prosecutrix had reiterated the allegations as alleged in the FIR and had specifically stated that the petitioner had sexually harassed her. Learned State counsel assisted by learned counsel for the complainant has submitted that since the allegations against the petitioner are serious in nature, hence he does not deserve to be given concession of anticipatory bail.

4. I have heard learned counsel for the parties and have perused the record.

5. The petitioner is alleged to have sexually harassed the victim who was 11 year daughter of the complainant as on 05.11.2023. He has placed on record copies of affidavits shown to be sworn by the

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complainant and eye-witness Rajesh Kumar as well as copies of representations stated to have been filed by the complainant before the police authorities to the effect that it was due to some misunderstanding that he had got the aforementioned case lodged against the petitioner. No consideration whatsoever can be given to these documents at this stage and it is for the trial Court to see the veracity of the same. The well settled proposition of law is that anticipatory bail should not be granted lightly and in a routine manner. The grant of refusal of such bail depends upon the failure of circumstances. The powers under this section are to be exercised sparingly and in exceptional cases, keeping in view the facts and circumstances of each case. It has to be seen that an order of anticipatory bail does not operate as inroad in the normal legal procedure of criminal cases by the trial Court. Keeping in view the nature of the allegations which have been levelled as against the petitioner in the present case, I am of the considered opinion that thorough investigation in the matter is required and no extraordinary circumstance making the petitioner entitled to seek concession of pre arrest bail is required to be given. Hence, the petition is dismissed.

10.01.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No