



103

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-59419-2024 (O&M)
Date of decision: 28.11.2024

Tula Ram and others

... Petitioners

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Bishan Dass Rana, Advocate
for the petitioners.

Mr. Subhash Godara, Addl. A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking anticipatory bail in FIR No.03 dated 06.01.2022 under Sections 363 & 366-A of the Indian Penal Code, 1860 (for short 'IPC') [Sections 376, 120-B, 506 of IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') were added later on], registered at Police Station Chabbewal, District Hoshiarpur.



2. Learned counsel for the petitioners, *inter alia*, contends that the jurisdictional police authorities have invoked the provisions of Section 4 of POCSO Act, in spite of the fact that the prosecutrix is 20 years of age. Further, the petitioners have not been named in the FIR (*supra*) and they have been named as accused, when the prosecutrix was examined by the jurisdictional Magistrate for recording her statement under Section 164 of Cr.P.C. [*now Section 183 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS')*] and there are star contradictions in the deposition of the witnesses and main accused Suresh Lal @ Suresh has already been convicted by learned trial Court vide judgment dated 25.01.2024.

3. *Per contra*, learned State counsel opposes the prayer for grant of anticipatory bail to the petitioners on the ground that age of the prosecutrix is 15 years and the petitioners intentionally concealing themselves, as such, non-bailable warrants have been issued against them by learned trial Court and there are serious and categoric allegations against them with regard to committing rape upon the prosecutrix. The petitioners have been specifically named by the prosecutrix in her statement recorded under Section 164 of Cr.P.C. (*now Section 183 of BNSS*) by the jurisdictional Magistrate.

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

5. Keeping in view the serious and specific allegations and also

2024:PHHC:157440



in view of the fact that the prosecutrix, in her statement recorded under Section 164 of Cr.P.C. (*now Section 183 of BNSS*), has specifically named the petitioners, this Court finds no ground to grant anticipatory bail to them.

6. Accordingly, the present petition is dismissed.

7. Needless to say, nothing observed herein shall be construed as expression of an opinion by this Court, lest it may prejudice the trial. Learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

[HARPREET SINGH BRAR]
JUDGE

28.11.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No