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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-3610-2025
Date of decision: 06.02.2025**

BALWINDER ALIAS PALVINDER

...Petitioner(s)

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. S. S. Bairagi, Advocate for the petitioner.

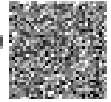
Mr. Vishal Kashyap, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 482 of the BNSS, 2023 read with Section 528 of the BNSS, 2023 for the grant of anticipatory bail to the petitioners in FIR No.273 dated 17.12.2024, under Section 8 of the POCSO Act and Sections 126 and 351(2) of BNS, 2023, registered at Police Station Jathlana, District Yamuna Nagar, Haryana.

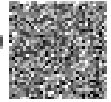
2. On the last date of hearing i.e. 22.01.2025, notice of motion was issued and in pursuance thereof, reply by way of an affidavit of Deputy Superintendent of Police, Radaur dated 30.01.2025 has been filed on behalf of the State of Haryana and the same is taken on record.

3. A copy of the aforesaid reply has already been supplied to the learned counsel for the petitioner, who has stated that he has gone through the same.



4. The present FIR came to be lodged under Section 8 of the POCSO Act and Sections 126 and 351(2) of BNS, 2023 on the basis of a complaint made by the mother of the minor girl by alleging that her daughter is of the age of 16 years and is studying in 12th standard in a Government School and after school she goes for tuition and comes back to the village daily on cycle. On the day of occurrence when her daughter was coming back from the tuition at around 05:30 P.M., the petitioner was already standing near a sugarcane centre with his bike parked on the side and he blocked her daughter's way and then pushed her down from the cycle and by putting a knife on her neck took her to the side of the road and started molesting her and at that point of time, one Naresh Kumar, who is the family member of the complainant was passing by and he recognized her daughter and challenged the petitioner, who thereafter ran away on seeing him. Further allegations made by the complainant were that the petitioner threatened to kill her daughter and thereafter, sat on his bike which was already parked there and ran away from the spot.

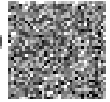
4. Learned counsel for the petitioner submitted that it is a case where false allegations were levelled against the petitioner, who is also having mental illness and is being treated in hospital for a long time and referred to Annexure P-3 and Annexure P-4 in this regard. He further submitted that no such occurrence had taken place and it was a case of a small accident only due to which the daughter of the complainant fell down from the cycle and rather she slapped the petitioner and the aforesaid story was concocted by the complainant which was told to the police and consequent upon the same, the present FIR was lodged. He also submitted that even when the statement of the aforesaid



minor girl was recorded before the learned Magistrate under Section 164 Cr.P.C., there was no specific allegation of molestation and therefore, the petitioner may be considered for the grant of anticipatory bail.

5. On the other hand, Mr. Vishal Kashyap, DAG, Haryana while referring to the aforesaid reply filed on behalf of State of Haryana submitted that so far as the argument which has been raised by the learned counsel for the petitioner that the minor girl did not specifically alleged molestation at the time of recording the statement under Section 164 Cr.P.C. is concerned, the same is false in view of the fact that rather the aforesaid statement has been attached alongwith the aforesaid reply filed on behalf of State of Haryana, wherein she has stated that the petitioner was already standing when she was coming back after taking tuition and he pushed her from the cycle, whereby she fell down on the side of the road and he was having a knife in his hand and he had put the same on her neck and thereafter, dragged her into the bushes and thereafter, she was crying. He further submitted that the minor girl also stated in the aforesaid statement that the petitioner said that if she cried then he will kill her and thereafter, one uncle of the village rescued her. He further submitted that there was no discrepancy or any improvement in the statement of the minor girl and since the minor girl has specifically alleged that she was dragged into the bushes by the petitioner, the offence was made out.

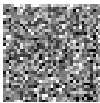
6. Learned State counsel also submitted that the girl is of the age of 16 years and the plea which is taken by the petitioner that he was mentally ill is also a false plea in view of the fact that rather a complaint was given by the father of the petitioner to the police, whereby although he specifically stated



that the petitioner is mentally ill but in the present case, the petitioner was on a motorcycle and no document with regard to the medical certificate of the petitioner has been shown by the father of the petitioner nor has been attached along with the present petition except for Annexure P-3 and Annexure P-4. He further submitted that the person, who is a mentally ill person cannot ride a motorcycle and now a false plea has been taken by the petitioner that it was a case of an accident. He also submitted that the knife and the motorcycle used in the present offence are yet to be recovered and it is a case where for the purpose of elicitation of truth, the custodial interrogation of the petitioner is required considering the gravity of the offence involved in the present case and therefore, the present petition may be dismissed.

7. I have heard the learned counsels for the parties.

8. It is a case where the allegations against the petitioner were with regard to waylaying a girl of the age of 16 years, putting knife on her neck and dragging her into the bushes and thereafter, threatening her to kill. Much emphasis has been laid by the learned counsel for the petitioner that the petitioner is a mentally ill person and referred to Annexure P-3 and Annexure P-4 in this regard. However, at this stage, the petitioner will not be able to get any benefit of the aforesaid because there is nothing on the record to show that he is a mentally ill person. On the other hand, learned State counsel has laid emphasis on the gravity of the offence and the allegations pertaining to a minor girl and the statement made by her under Section 164 Cr.P.C. before the learned Magistrate and also the fact that the recovery of knife and motorcycle is yet to be effected, it is necessary that the



custodial interrogation of the petitioner is required for the purpose of elicitation of truth.

9. This Court is of the considered view that the stand which has been taken by the learned State counsel cannot be ignored and does carry weight. In view of the gravity of allegations, this Court is of the considered view that no ground is made out for grant of anticipatory bail to the petitioner.

10. Consequently, finding no merit in the present petition, the same is hereby dismissed.

11. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

06.02.2025
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No