

2025:PHHC:034809



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

105

CRM-M No.13442 of 2025
Date of decision: 11.03.2025

Akash Kalyan @ Akash and another ... Petitioners

Vs.
State of Punjab and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ruhani Chadha, Advocate,
for the petitioners.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab,
for the respondent-State.

Mr. Prateek Pandit, Advocate,
for respondent No.2.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioners under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
10	09.01.2025	City Kapurthala, District Kapurthala	127(2) and 351 of the Bharatiya Nyaya Sanhita, 2023 (For short “BNS”) (6 of the Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”))

2. The petitioners have been booked for commission of

2025:PHHC:034809



aforementioned offences on the basis of statement recorded by the complainant (name withheld) who was a minor boy on the allegations that on 06.01.2025, the petitioners and co-accused child in conflict with law “V” (name withheld) had taken him towards the forest area of Village Jhal on the pretext of buying a kite at cheaper rates for him and had committed act of carnal intercourse against the order of nature with him and thereafter they fled after leaving him in the forest area. The complainant was medically examined on 07.01.2025. The investigation is underway. The petitioners filed an application for grant of pre arrest bail which has been dismissed by the Court of learned Additional Sessions Judge, Kapurthala vide order dated 27.01.2025.

3. It is argued by learned counsel for the petitioners that they have been falsely implicated in this case. There is delay in reporting the matter to the police which has not been satisfactorily explained. The co-accused who is a child in conflict with law has been granted concession of anticipatory bail by this Court. On parity, the petitioners too deserve to be given the same benefit. Therefore, it is urged that the petition deserves to be allowed.

4. Notice of motion.

5. Ms. Ruchika Sabherwal, Senior Deputy Advocate General, Punjab has advance notice of the petition and is ready to argue. At this stage, power of attorney on behalf of the minor respondent No.2 has been

2025:PHHC:034809



filed by his father. It is argued by learned State counsel assisted by learned counsel for the respondent No.2 that there are serious and specific allegations against the petitioners as the petitioners along with the child in conflict with law had committed the act of carnal intercourse against the order of nature/aggravated penetrative sexual assault upon the minor victim. The delay has been satisfactorily explained. The case of the petitioners cannot be stated at parity with the child in conflict with law since he was a juvenile. Therefore, it is urged that the petition does not deserve to be allowed.

6. I have heard learned counsel for the parties at considerable length and have gone through the record.

7. The petitioners along with the child in conflict with law are alleged to have subjected the victim to act of aggravated penetrative sexual assault. The child in conflict with law has been extended benefit of pre arrest bail in view of the fact that he was below the age of 18 years at the time of commission of the alleged offence. The petitioners are adult persons. The allegations against them are serious in nature. For conducting thorough investigation in the matter, their custodial interrogation is must. It is well settled proposition of law that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The powers of anticipatory bail are extra ordinary and the same are to be exercised sparingly in

2025:PHHC:034809



exceptional circumstances. The judicial discretion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation, possibility of applicant's fleeing from justice and other factors to decide whether it is a fit case for grant of anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. The Court has also to see that an order of anticipatory bail should not operate as an inroad in the normal legal procedure of criminal cases by the trial Court. The custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order of anticipatory bail. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. Keeping in view the gravity thereof, the role attributed to the petitioners, the likelihood of their influencing the course of investigation and also of tampering with the evidence, no ground has been made out for allowing the petition. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

2025:PHHC:034809



8. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

11.03.2025
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(MANISHA BATRA)
JUDGE

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