

CRM-M-49823 of 2025

2025:PHHC:122054



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

CRM-M-49823 of 2025

Date of decision: 08.09.2025

Raj Kumar @ Raj @ Raju Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Dixit Garg, Advocate,
for the petitioner.

Ms. Mahima Yashpal Singla, Sr. DAG, Haryana.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioner under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking anticipatory bail in case FIR No.436 dated 10.11.2024 registered under Sections 61(2), 64(1), 351(3) of the Bharatiya Nyaya Sanhita, 2023 and Sections 6/17 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Chandhut, District Palwal.

2. Present FIR was registered on the basis of a complaint given by one 'A' wife of 'V. Sharma, resident of Village-'L', District-Palwal, alleging therein that her daughter 'J', aged about 15 years, was studying in Government Senior Secondary School in 9th Class. On

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10.11.2024, the complainant's daughter 'J' told her that around 20-25 days ago, when she went to her school then at around 8:00 A.M., she was called out of school by accused Jitender who threatened to commit suicide if she would not accompany him. Resultantly, the complainant's daughter got frightened and she accompanied said Jitender to the School Gate. The said Jitender gave water to the complainant's daughter from a bottle. The maternal uncle of accused Jitender i.e. present petitioner was standing with the motorcycle outside the gate of the school. The said Jitender and petitioner made the complainant's daughter sit on the motorcycle. The said motorcycle was being driven by petitioner-Raj Kumar alias Raj and the accused Jitender was the pillion rider. The complainant's daughter was made to sit in the middle of the seat. The said persons took the complainant's daughter to Nitin Clubs, HUDA Chowk, Palwal. The said Jitender took the complainant's daughter 'J' to a room inside Nitin Clubs whereas petitioner kept standing outside Nitin Clubs. In the said room, the accused Jitender committed the prohibited act with the complainant's daughter against her wishes and he also took obscene photographs of the complainant's daughter. Thereafter, said Jitender and the petitioner dropped the complainant's daughter at the gate of the school intimidating her with death threats if she disclosed the incident to any person. Thereafter, at around 9:30 AM on 22.10.2024, said Jitender went to the school and threatened the complainant's daughter to accompany him otherwise he would make her photographs viral. Hence, the complainant's daughter

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sat on his motorcycle and she was again taken to Nitin Clubs, HUDA Chowk, Palwal by said Jitender. The said Jitender took the complainant's daughter 'J' to a room inside Nitin Clubs and again he committed the prohibited act with the complainant's daughter against her wishes. Then he dropped the complainant's daughter at the school gate by again giving her death threats if she disclosed the incident to any person. He also threatened to make obscene photographs viral if she disclosed the incident to any person. Hence, the present FIR.

3. Learned counsel for the petitioner has contended that the petitioner is innocent and has been falsely implicated in the present case as he has not committed any offence. He further submitted that even if the allegations levelled in the FIR are presumed to be true, then also no offence is made out against the petitioner as he was only standing outside the hotel and no offence has been committed by him. He further submitted that the main accused Jitender has already been arrested and nothing is to be recovered from the petitioner. He further submitted that the petitioner is not involved in any other case and is ready and willing to join the investigation.

4. Per contra, learned State counsel has opposed the prayer for grant of anticipatory bail to the petitioner on the ground that petitioner is accused of facilitating the main accused Jitender to commit rape upon the minor victim. Therefore, for proper investigation of the case his custodial interrogation is required.

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

6. As per prosecution, on 10.11.2024, co-accused Jitender called 15 years old daughter of the complainant from the school under the threat of committing suicide, and petitioner, who is the maternal uncle of co-accused Jitender was standing with the motorcycle outside the gate of the school. Petitioner and co-accused Jitender made the complainant's daughter to sit in the middle of the seat of the vehicle, which was being driven by petitioner-Raj Kumar alias Raj and the accused Jitender was the pillion rider. They took the complainant's daughter to Nitin Clubs, HUDA Chowk, Palwal. The said Jitender took the complainant's daughter 'J' to a room inside Nitin Clubs whereas petitioner kept standing outside. In the said room, the accused Jitender committed rape with the complainant's daughter against her wishes and also captured her obscene photographs.

7. There are specific allegations against the petitioner that he played a pivotal role in the commission of rape upon the minor victim by co-accused Jitender and actively supported and guarded the main accused as he took accused-Jitender and the victim to the hotel on his motorcycle, where while his nephew-Jitender committed rape with the minor girl and besides this the petitioner also guarded the place where rape was alleged to be committed and thereafter dropped her outside the gate of the school. In the statement recorded under Section 183 of

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the BNSS, the petitioner has been named by stating that petitioner took her to the hotel and waited outside there.

8. The offence alleged is of grave magnitude involving the sexual assault of a child. The petitioner is alleged to have proactively aided the principal accused by transporting the victim to the place of occurrence and guarding outside while the heinous act was committed. Such conduct *prima facie* demonstrates “conscious participation” rather than “mere presence”. Grant of anticipatory bail in cases of this nature may not only hamper the free and fair investigation but also send a wrong message to the society at large, thereby shaking public confidence in the administration of justice. Hence, the allegations levelled against the petitioner cannot be brushed aside at this stage, particularly when the statement of the minor victim specifically attributes an active role to him in facilitating the commission of the offence.

9. As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. (now Section 482 of the Bharatiya Nagrik Suraksha Sanhita, 2023) is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty. Also in determining the parameters in granting anticipatory bail in cases of



serious offences, the Hon'ble Supreme Court in ***Bhadresh Bipinbhai Seth v. State of Gujarat and another, (2016)1 SCC 152*** after analysing the entire law has observed as under: -

“23. xx xx xx xx xx

(a) *The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*

(b) *The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;*

(c) *The possibility of the applicant to flee from justice;*

(d) *The possibility of the accused's likelihood to repeat similar or other offences;*

(e) *Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;*

(f) *Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;*

(g) *The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution, because over implication in the cases is a matter of common knowledge and concern;*

(h) *While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and*

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full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(i) The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(j) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail. xx xx xx”

10. The allegations against the petitioner are serious in nature and his custodial interrogation may provide information leading to the discovery of material facts. Reliance can be placed upon the Hon’ble Supreme Court dictum passed in ***Prem Shankar Prasad v. The State of Bihar and another, 2021(4) RCR (Crl.) 598*** and ***Anil Kumar Singh v. High Court of Judicature at Patna through its Registrar General and another, (2020)19 Supreme Court Cases 364*** whereby the Hon’ble Apex Court had denied the concession of anticipatory bail in view of the gravity of offences and the conduct of the petitioner.

11. No other point has been argued.

12. In view of the facts and circumstances of the case, I am of the considered view that petitioner cannot *prima facie* be said to have been falsely enroped in the crime and his custodial interrogation is necessary in the case. The measure of justice is not only in protecting the liberty of the accused but also in assuring society that the innocent,

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particularly the most vulnerable, shall not stand unguarded. In matters where allegations unveil exploitation of a child, the duty of the Court is elevated. Since the investigation is going on and the petitioner may misuse his liberty if enlarged on anticipatory bail, and abscond, therefore, he does not deserve concession of anticipatory bail.

- 13. In view of the above, the petition is dismissed.
- 14. However, nothing stated hereinabove shall be construed as a final expression of opinion on the merits of the case.

08.09.2025			(NAMIT KUMAR)
R.S.			JUDGE
	Whether speaking/reasoned	:	Yes/No
	Whether Reportable	:	Yes/No