

PBGD010066522023



Presented on : 21-08-2023

Registered on : 21-08-2023

Decided on : 23.08.2023

**IN THE COURT OF SH. AJIT PAL SINGH
ADDITIONAL SESSIONS JUDGE, GURDASPUR.**

Unique Identification Code No. (PB0226)

Bail Application no. 443 dated 21.08.2023

Date of Decision: 23.08.2023

CIS no. BA-2778-2023

FIR No. 041 dated 21.03.2023

U/S 363/366-A/120-B IPC &
Section 376D IPC and 6 POCSO Act added later
P.S. Shri Hargobindpur

Ajay (correct name Ajay Singh) son of Joga Singh resident of village
Cheema Khudi, P.S. Shri Hargobindpur Tehsil Batala, District Gurdaspur.

---Accused/applicant

Versus

State of Punjab.

1st BAIL APPLICATION U/S 438 CR.P.C

Present: Sh. Raman Kumar, Advocate counsel for accused/applicant.
Sh. Hardeep Kumar, Addl.P.P for the State.

O R D E R

1. This order of mine shall dispose off bail application moved
under Section 438 Cr.P.C on behalf of accused/applicant Ajay (correct
name Ajay Singh) for releasing him on bail in aforementioned FIR.

2. Notice of bail application was given to State, consequent
upon which learned APP for the State had put in appearance. Record has

been perused.

3. In brief, prosecution story is that present case was registered on the statement of complainant Simarjit Kaur wife of Gurmeet Singh to the effect that she is a household lady. Her brother Harjit Singh and sister in law Rajwant Kaur had died. Her brother Harjit Singh has one daughter/prosecutrix, aged about 16 years and five months, whose date of birth is 01.09.2006 and was living with her (complainant) from the last about 14 years and was studying in 10th class in Gian Sagar School Bhatiwala. On 17.03.2023 at about 07:30 PM, she (complainant) was preparing meal and the prosecutrix was serving the meal to her paternal uncle in law (Fufa) Gurmeet Singh. The prosecutrix told her to make two 'chapaties' (flour bread) for her and when she prepared two 'chapties', then she saw that the prosecutrix was not present in the home. They tried to trace her nearby and from the relatives, but to no avail. Later on, she came to know that her niece/prosecutrix had been enticed away by Ajay son of Joga Singh resident of Cheema Khudi in connivance with son of his maternal uncle namely Akash son of Bagha resident of Bhamri and sister Kirandeep Kaur wife of Hardip Singh resident of village Chapian on the pretext of marriage. On the basis of said statement, present case was registered.

4. I have heard the learned counsel for accused-applicant, learned Additional PP for the State and have also perused the record very minutely with their able assistance.

5. Learned counsel for accused-applicant has argued that the accused-applicant is innocent and he has been falsely implicated in the present case. The alleged victim has already been recovered and she is living with her parents. It has been further submitted there is delay of five days in lodging the complaint, which shows that the FIR had been got registered with due deliberations by the complainant. There is no evidence with the prosecution to connect the accused-applicant with the alleged offence and nothing is to be recovered from him. It has further been submitted that accused-applicant will not tamper with the prosecution evidence and shall appear on each and every date and shall not misuse the concession of bail and finally prayer for granting him anticipatory bail has been made.

6. Per contra, in stark retaliation to the arguments put forth by learned counsel for accused-applicant, learned APP for the State vehemently opposed the contentions so put forth by learned counsel for accused/applicant and stated that serious allegations have been levelled against the present accused-applicant and in case, he is granted bail, he might try to hamper the proceedings of the investigation and might also try to influence the prosecution witnesses and as such, he does not deserve the leniency of the court in grant of relief of bail and finally prayer for its dismissal has been made.

7. After considering the rival contentions of both the parties and perusing the record, it has come to forefront that the allegations against

the present accused-applicant are that he in connivance with co-accused (non-applicant) had kidnapped the minor prosecutrix from the lawful custody of her parents and committed rape upon her. These allegations are very serious and grave in nature. Learned counsel for accused-applicant has argued that the present case has been falsely implanted upon the present accused-applicant to extract money from him and that he has not committed any offence and is innocent. Needless to say that the fact whether the present case has been falsely planted upon the accused-applicant, is a matter to be appreciated at the later stage. The perusal of record reveals that investigation is still pending and accused-applicant has not yet joined the investigation. Thus, the chance of his escaping the procedure of law, tampering with the evidence or threatening the complainant exists. In my view, since the case is at the threshold and the investigation is underway, it will be practically scuttling the investigation in case the anticipatory bail is granted to the accused-applicant which will create hurdles in arriving at the truth. Hence, without further delving into the merits of the case and keeping in view of the fact that there are specific and serious allegations against the present accused-applicant, the court is of the opinion that at this stage, no exceptional circumstances are made out to attract the provision u/s 438 Cr.P.C for granting pre-arrest bail to the present applicant. Consequently, the bail application of accused-applicant is dismissed.

8. Although this bail application is being dismissed, but it is

made clear that nothing as expressed in the said order shall have any bearing on the merits of the main case. Police file be returned. Papers be consigned to the record room.

Pronounced in the open Court
Dated: 23.08.2023

(Ajit Pal Singh)
Addl. Sessions Judge,
Gurdaspur. UID no. PB0226

Dilbag Singh Steno-II