

PBTT010054922024



IN THE COURT OF AMANDEEP KAUR CHAHAL (UID No. PB0248) ADDITIONAL SESSIONS JUDGE, TARN TARAN

**Bail Application no.2706 of 2024
Date of Order : 14.11.2024**

Samuel Masih, aged 70 years, son of Feroz Masih, resident of Sarhali Road, Opp. Shalimar Palace, Gali Sigma Scan, Tarn Taran, tehsil and district Tarn Taran.

.....Accused/accused

Versus

State.

(First bail application under Section 483 of B.N.S.S.)

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FIR no. 132 dated 25.09.2024
U/S 74 of BNS, 2023 and 8 POCSO Act, 2012
P.S Sadar, District Tarn Taran

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Present : Shri Ankush Sood Advocate, learned counsel for
the accused-applicant.
Shri Sandeep Kumar learned Additional Public
Prosecutor for the State.

O R D E R

1. This order shall decide the first application for bail under section 483 of Bharatiya Nagarik Suraksha Sanhita(hereinafter referred to as BNSS) filed on behalf of the applicant/accused Samuel Masih, in case F.I.R.No. 132 dated 25.09.2024, under Section 74 of BNS, 2023 and 8 POCSO Act, 2012, P.S Sadar, District Tarn Taran
2. Notice of the bail application was issued to the State and police record was requisitioned.
3. Report of investigating officer along with the Additional Public Prosecutor about pendency of or of any former adjudication of bail application before or by any Court under the provisions of Cr.P.C and the

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result thereof was called upon. It was reported that no any application relating to this case is pending. Such a declaration is also contained in the bail application.

4. Ahlmad had also reported that according to the information available in the CIS system, no other bail application relating to this case is pending or decided by any Court.

ABSTRACT OF FIR:

5. The present FIR was registered on the statement of complainant. In her statement recorded with the police on 25.09.2024, complainant stated that she is resident of village Chautala and is house wife. She has three children. Her grand daughter is married. Her husband and her son are working as labourer at Tarn Taran. On 24.09.2024, due to unfortunate death of her relative she went to Amritsar and her daughter/prosecutrix aged about 13 years 10 month was alone in the house. At about 02:00 PM, accused Samuel Masih son of Tiroj Masih, resident of Tarn Taran entered in complainant house and did obscene acts with her daughter and when her daughter raised alarm, accused fled away from the spot. When she came to her house , prosecutrix disclosed about the occurrence to her. On the basis of this statement, the present case was registered against the accused.

6. During investigation the victim/prosecutrix got recorded her statement under Section 164 Cr.P.C. On 26.09.2024, applicant/accused was arrested in the this FIR.

7. Contention of learned counsel for the accused-applicant is that a concocted and false story has been made up by the prosecution in order to harass the applicant/accused. The applicant/accused is no more required

for any kind of investigation and no useful purpose will be served by detaining him behind the bars. The applicant/accused has further contended that no offence as alleged was committed by him who is old aged person. The applicant/accused has further contended that he would not tamper with the prosecution evidence and will not abscond from the trial court and would appear on each and every date of hearing and shall not misuse the concession bail and will abide by all the terms and conditions as laid down under Section 483 BNSS or as imposed by the court and finally, it has been prayed that the applicant/accused may be granted bail.

8. On the other hand, while controverting the contentions put-forth by the counsel for accused, Id. APP for the State argued that serious allegations have been leveled against the applicant/accused. He further argued that if the concession of bail is granted to the applicant/accused, he may try to influence the prosecution witnesses. Hence, the applicant/accused does not deserve the leniency of the court and should not be granted relief of bail.

DISCUSSION:

9. From the perusal of record it transpires that the FIR was registered under Sections 74 of BNS, 2023 and 8 POCSO Act, 2012 against the applicant/accused. The accused/applicant is in custody since 26.09.2024, but the specific allegations have been leveled against the applicant/accused by the complainant, which are serious and grave in nature. *The challan has not been presented.* There is every likelihood that if the applicant/accused is granted bail, he may attempt to tamper the

process of the trial and influence the prosecution witnesses in one way or the other.

10. As per the record the date of birth of the prosecutrix is 27.11.2010 as is depicted in her 8th Class certificate and birth certificate . The alleged offence took place on 25.09.2024. The age of the prosecutrix is stated to be approximately 13 years 9 months old at the time of commission of offence. Thus at the time of commission of the alleged offence, the victim was a minor. The interests of the victim child, witnesses and of the society at large need to be protected. The public interest of fair trial would outweigh the personal interest of the accused while undertaking the task of balancing the liberty of accused on one hand and interest of the society to have a fair trial on the other hand. It is the need for larger public interest to ensure that criminal justice delivery system works efficiently, smoothly and in a fair manner that has to be given prime importance. If there is threat to fair trial because of intimidation of witnesses etc, it would shake public confidence in the criminal justice delivery system. Reliance is placed upon the observations made by the **Hon'ble Supreme Court of India in Shahzad Hasan Khan v/s Ishtiaq Hasan Khan (1987)2 SCC 684 , Masroor vs state of U.P (2009) 14 SCC(CRI)1368.** In cases involving sexual offences against women / children , the risk of the accused influencing witnesses and tempering with evidence is high . Also that there is likelihood that he would flee away from the jurisdiction of the court which would prejudice the trial. Thus without delving into the merits of the case, the court is of the opinion that at this stage, no ground is made out to allow the present bail application.

11. Consequently, the bail application is dismissed. It is made clear that none of the observation made by this court would ever influence the decision of the court on merits of the case. Bail Papers be attached with the remand papers/challan pending, if any, or be consigned to the record room.

**Pronounced in open court
on: 14.11.2024**

**Amandeep Kaur Chahal,
Additional Sessions Judge/
Judge Special Court/
FTC/POCSO, Tarn Taran
/UID-PB0248**

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Present : Shri Ankush Sood Advocate, learned counsel for
the accused-applicant.
Shri Sandeep Kumar learned Additional Public
Prosecutor for the State.

Judicial file received and perused.

Arguments heard. Vide my separate detailed order of even
date, the present bail application stands dismissed. Bail Papers be attached
with the remand papers/challan pending, if any, or be consigned to the
record room.

**Pronounced in open court
on: 14.11.2024**

**Amandeep Kaur Chahal,
Additional Sessions Judge/
Judge Special Court/
FTC/POCSO, Tarn Taran
/UID-PB0248**

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