

Jagtar Singh Vs State, Bail application under Section 439 Cr.P.C
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In the Court of Mrs. Jagdeep Kaur Virk,UID No.PB0152
Additional Sessions Judge,
Ludhiana

Bail Application No.101 dated 07.03.2018
CNR No.PBLD010049652018
CIS No.BA/1788/2018
Date of Order: 17.03.2018

Jagtar Singh age not mentioned son of Major Singh, resident of VPO
Manal, District Barnala.

.....applicant-accused

Versus

State of Punjab

FIR No.37 dated 8.2.2018
under Section 376, 120-B IPC
Section 3, 4 of Protection of Children from Sexual Offences (POCSO)
Act,
Section 3, SC/ST and Section 67 of Information Technology Act.
P.S. Hathur, Ludhiana

Present: Sh. Bikram Singh Sidhu, Advocate, for applicant-accused

Mrs. Pooja Singal, Addl.PP for State along with
ASI Harpreet Singh, No. 1339/Jagraon

ORDER

On 6.3.2018 applicant-accused, through Counsel
moved an application under Section 439 Cr.PC seeking regular bail in FIR
No.37 dated 8.2.2018, under Section 376, 120-B IPC, Section 3, 4 of
Protection of Children from Sexual Offences (POCSO) Act, Section 3,
SC/ST and Section 67 of Information Technology Act, P.S. Hathur,
Ludhiana.

2. On notice, learned Addl.PP for the State appeared and police record is produced by ASI Harpreet Singh.

3. I have heard the arguments of learned Counsel for the applicant-accused and Addl. PP for the State and have gone through the police file.

4. It is contended by applicant Counsel that applicant-accused is innocent and falsely implicated. No offence as alleged in the FIR has ever been committed by the applicant-accused. Applicant-accused is in judicial custody since 15.02.2018. Co-accused Harpreet Kaur and Parvinder Singh are already admitted on regular bail by this court. Presentation of challan and conclusion of trial will take considerable time. No useful purpose would be served for keeping applicant-accused in judicial custody any longer. Besides, applicant-accused is ready to furnish the bail bonds and to abide by the terms and conditions to be imposed by the court.

5. On the other hand Ld. Addl. PP for the State opposed the bail application on the ground that it is applicant's own admission during investigation that applicant-accused is working as Assistant in Medivision Lab, Raikot and he in criminal conspiracy with co-accused Harjit Singh conducted scanning/ultrasound of victim/prosecutrix without making any entry to this effect in the record.

6. Perusal of the police record would reveal that the FIR is registered against accused Harjit Singh and Bharat Bhushan by name on the statement dated 7.2.2018 of complainant/prosecutrix aged 17 years d/o

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Gurmail Singh, R/o Village Nathowal, PS Hathoor which she got recorded with Executive Magistrate, Jagraon, wherein prosecutrix alleged that she is resident of aforesaid address. She is studying in class 12th Arts Group in Govt. Senior Secondary School, Village Nathowal. She took admission in the aforesaid school in 9th class after passing out class 8th from Nathowal Elementary School. When she was in class 11th, she became acquainted with teacher Harjit Singh who was not teaching them. She never met him from class 9th to class 11th. In class 11th after February, 2017 she remained in contact with him and thereafter she stopped talking with Harjit Singh. Apart from him no other colleague or teacher ever remained with her. In January, 2017 (exact date she does not know) Harjit Singh committed wrong act with her in school library with her consent. She neither became pregnant nor she got conducted abortion. She does not know the address of Harjit Singh.

7. Further, as per police record letter no. 248/PC-1-0P dated 7.2.2018 addressed from SSP, Ludhiana (Rural) to In-charge, Rajesh Kumar, SHO PS Hathur was received wherein the direction was issued to give personal hearing to Bhupinder Singh in connection with application and newspaper publication item. The said letter pertains to subject of taking legal action against some teachers of Govt. Senior Secondary School, Nathowal, Tehsil Raikot, District Ludhiana (Punjab) for committing immoral acts of rape with school students and getting their abortion done and in connection with the audio recording which is viral on social media. The said letter was accompanied with copy of the

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application addressed from Bhupinder Singh resident of Raikot to DGP, Punjab Police, copy of newspaper publication item (English Edition).

8. After conducting inquiry, the present FIR was registered.

9. In the entire FIR, there is no allegation against applicant-accused Jagtar Singh pertaining to commission or participation in the alleged offence. As per police zimny No. 5 dated 10.2.2018, during police remand on 10.2.2018, applicant-accused admitted the fact that he is employed at Medivision Lab Raikot from last about four years and is getting salary Rs.7000/- per month. On 27.2.2018, Harjit Singh in furtherance of pre-planned conspiracy brought prosecutrix to scan center and got conducted scan of prosecutrix from him and then took the prosecutrix along with him. He did not make any entry of scan in the record as Harjit Singh offered to give him some consideration for doing the same but later on he was not given anything. Nothing was diagnosed in the scan.

10. Alleged disclosure statement is made to the police by the applicant-accused during his custodial interrogation as such it's admissibility is barred under sections 25 and 26 of Indian Evidence Act except it's limited use under section 27 of Indian Evidence Act and that too only against the person making the statement. As per the police record, no recovery has been effected from the applicant-accused.

11. In the statement under section 164 Cr.PC, prosecutrix did not raise any allegation against applicant-accused and has stated that

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neither she got pregnant nor she got her abortion done. There is no document on police record showing any pregnancy or abortion of prosecutrix/victim or any other girl student. During investigation, the ultra-sound machine of Medivision Diagnostic Center/Sandhu Scan Center, Raikot was sealed and got inspected from Dr. Meenakshi Gupta, SMO, Civil Hospital, Jagraon. As per the copy of the report submitted by Dr. Meenakshi Gupta to SMO Civil Hospital, Jagraon, she checked ultrasound record of dated 27.02.2017 of Sandhu Scan Center and observed as below:

- I. There was no entry of the above said patient in the storage memory of machine dated 27.02.2017.
- II. The machine memory showed only patient from 28.7.2017 onwards till date except for only few entries (14 patients) of previous period.
12. Accordingly, on inspection of the scan machine of the Diagnostic Center run by the applicant-accused, it did not show that any scanning of prosecutrix was done relating to pregnancy or abortion.
13. Applicant-accused was arrested on 10.02.2018 and is in judicial custody since 15.2.2018. Co-accused Harjit Singh, Sukhvir Singh, Harpreet Kaur, Parvinder Singh, Bharat Bhushan Singla, Jaswinder Singh are already arrested by the police and accused Harpreet Kaur and Parvinder Singh are already admitted on regular bail by this court.
14. No recovery is effected from the applicant-accused. There is no allegation of prosecution that in case applicant-accused is

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released from custody, he will try to influence the prosecution witnesses or will flee from the process of justice.

15. In view of the facts and circumstances mentioned above, without expression of opinion on merits the bail application is allowed and the applicant-accused is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned Area Magistrate / Duty Magistrate subject to the following conditions:-

I) That the applicant shall keep on appearing in the trial court on each and every date of hearing or as and when so required and his/her failure to appear on any date of hearing shall result in cancellation of the bail allowed to her by this Court.

II) That the applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court.

III) That the applicant shall not leave the country without seeking prior permission of the trial Court.

16. Copy of bail order be sent to learned Area Magistrate / Duty Magistrate, forthwith. Police record be returned along with copy of bail order to the SHO/In-charge, Police station concerned through Naib court. Bail application file of this Court be consigned to the record room.

Pronounced: 17.03.2018
Sonia Gupta

(Jagdeep Kaur Virk), UID PB0152
Addl. Sessions Judge,
Ludhiana