

PBGD010043462023



Presented on : 24-05-2023

Registered on : 24-05-2023

Decided on : 30.05.2023

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

Unique Identification Code No. (PB0226)

Bail application No. 203 dated 24.05.2023

Date of Decision: 30.05.2023

CIS no. BA-1724-2023

FIR No. 0086 dated 12.08.2022

U/S 363/366/376(D) IPC and 6 of

POCSO Act

P.S. Rangar Nangal

Sahilpreet Singh @ Mani son of Jarnail Singh resident of village Dhandoi
Tehsil Batala, District Gurdaspur.

---Accused/applicant

Versus

State of Punjab

1st Application for granting bail under Section 438 Cr.PC.

Present: Shri Pushpinder Singh, Adv., counsel for accused-applicant.
Shri Hardeep Kumar, Additional P.P. for State.

ORDER

1. This order of mine shall dispose off bail application moved under Section 438 Cr.P.C on behalf of accused/applicant Sahilpreet Singh @ Mani 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 also been received.

3. In brief, prosecution story is that the present FIR was registered on the basis of statement of complainant Sukhjit Singh son of Sulakhan Singh to the effect that he has two children, i.e. prosecutrix/daughter aged about 14 years and son Vansh Kumar aged about 7 years. His daughter/prosecutrix was studying in Government High School, Panj Gharian in 9th standard. Yukub Masih son of Mukha Masih used to chase his daughter/prosecutrix, while she used to go and come back from the school and he warned him, but he did not mend his ways. On 11.08.2022 at about 05:00 PM, he was present in his house and his daughter went outside from the home, but did not come back. They tried to trace her whereabouts from nearby and relatives, but to no avail. He was sure that his daughter/prosecutrix had been enticed away on the pretext of marriage. His daughter is minor as her date of birth is 09.04.2008. 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 accused-applicant is innocent and has been falsely implicated in the present case as the ingredients of all the offence are missing. It has been further argued that there is delay of three days in lodging the FIR and

there is no evidence with the prosecution to connect the accused-applicant with the alleged offence. It has been further argued that the prosecutrix as well as other star witnesses have been turned hostile and nothing is to be recovered from the accused-applicant. It has been further argued that accused-applicant will abide by all the terms and conditions as imposed upon him and finally prayed for granting him anticipatory bail.

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 process of trial and might also try to influence the prosecution witnesses and hence, he does not deserves the leniency of the Court in grant of relief of bail and finally he prayed for its dismissal.

7. After hearing the rival contentions of both the parties and perusing the record, it has come to the forefront that in this FIR, the police has filed the Challan against accused Yakub Masih son of Mukhtiar Singh @ Mukha Masih. It has been further mentioned that proclamation proceedings are pending against accused Ravinder son of Chandi and Sahilpreet Singh @ Sony (accused-applicant). Much stress has been laid by learned defence counsel that in the trial of above said Yakub Masih son of Mukhtiar Singh @ Mukha Maish, the prosecutrix has not supported the

case of the prosecution. The close perusal of the main file reveals that prosecutrix has simply stated that accused Yakub @ Yakub Masih has not committed any offence with her. Clearly, the prosecutrix has turned hostile only qua Yakub Masih and not the accused-applicant. Similarly, the parents of the prosecutrix PW1 Sukhjit Singh and PW2 Manjit Kaur also turned hostile only qua Yakub Masih. More so, the FSL report of the prosecutrix is awaited in the main file. The accused-applicant is playing hide and seek with the police and is yet to be arrested. In the above mentioned circumstances, the accused-applicant is held not entitled to relief of anticipatory bail. Though the challan against co-accused has already been presented, but accused-applicant has not yet joined the investigation, hence the chance of his escaping the procedure of law, tampering with the evidence or threatening the complainant exists. In view of the aforesaid settled principles, the facts and circumstances of the present case and perusing the allegations leveled against the accused-applicant and considering the gravity of offence, this court is not inclined to grant anticipatory bail to the applicant. Hence, without further delving into the merits of the case, this 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 tagged with the main file.

Pronounced in the open Court
Dated: 30.05.2023
Dilbag Singh Steno-II

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