

PBTT010035492023



Presented on : 14-06-2023
Registered on : 15-06-2023
Decided on : 05-07-2023
Duration : 0 years, 0 months, 21 days

**IN THE COURT OF NEETIKA VERMA (UID No. PB0209)
ADDITIONAL SESSIONS JUDGE, TARN TARAN**

**Bail Application no. 1748 of 2023
Date of Order : 05.07.2023**

Kulwinder Kaur, aged about 48 years w/o Swaran Singh r/o village Nawe Warian, Waryah, Tehsil and Distt. Tarn Taran.

.....Accused/petitioner

Versus

State.

(First Bail application under Section 438 Cr.P.C.)

-O-O-

FIR no. 93 dated 10.12.2015
U/S: 376-D of IPC and offence under Section 109, 120-B of
IPC enhanced later on.
P.S: Chohla Sahib, Distt. Tarn Taran.

-O-O-

Present : Sh. Jarnail Singh Johal Advocate, learned counsel for
the accused-applicant.
Shri Satinderjit Singh Gill, learned Additional Public
Prosecutor for the State

ORDER

The above named accused has filed this application for grant of pre-arrest bail under Section 438 of Criminal Procedure Code(hereinafter referred to as Cr.P.C.), in FIR no. 93 dated 10.12.2015, U/S: 376-D of IPC and offence under Section 109, 120-B of IPC enhanced later on, P.S: Chohla Sahib, Distt. Tarn Taran.

(Neetika Verma, ASJ/JSC, Tarn Taran, UID no. PB0209)

2. Notice of the bail application was issued to the State and police record was requisitioned.

COMPLIANCE OF DIRECTIVE CONTAINED IN ORDER DATED 28.07.2021 PASSED BY HON'BLE PUNJAB AND HARYANA HIGH COURT IN CRM-M-1695-2021

3. Carried out. Report of investigating officer attested by 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 result thereof received.

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:

4 The present case was registered on the statement of complainant/prosecutrix. In her statement recorded with the police, she stated that one Kulwinder Kaur introduced her with Angrej Singh. Angrej Singh started visiting her house. He took her forcibly to his tube-well where Gurlal Singh, Hira Singh and Angrej Singh (co-accused) committed rape with her. After that many times, Hira Singh visited her house and threatened her by saying that he had made her obscene videos and if she did not obey their command, those videos would be made viral. They used to commit rape with her against her consent. As a result of which, she became pregnant. They started giving threats to kill her family members, in case, she is not ready to get abort the child. Then she narrated the whole story to her father and subsequently the case was registered.

During investigation, the statement under section 164 Cr.P.C of prosecutrix/victim was recorded.

ARGUMENTS RAISED BY LEARNED COUNSEL FOR APPLICANT/ACCUSED:

5 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 has further been 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 438 of Cr.P.C or as imposed by the court and finally, it has been prayed that the applicant/accused may be granted bail.

ARGUMENTS OF LEARNED ADDL. PUBLIC PROSECUTOR.

6 On the other hand, while controverting the contentions put forth by the counsel for accused, ld. APP for the State argued that the 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.

GUIDING PARAMETERS

As outlined in *Gurbaksh Singh Sibbia v. State of Punjab*, (SC) : Law Finder Doc Id # 104574 reported in 1980 AIR(SC) 1632 *Bhadresh Bipinbhai Sheth v. State of Gujarat and Another* : Law Finder Doc Id # 705395 reported in 2015 AIR(SC) 3090 *Sushila Aggarwal and others - Petitioners Versus State (NCT of Delhi) and another – Respondents* : Law Finder Doc Id # 1674499 reported in 2020 AIR (SC) 831

(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 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 course of events, the accused is entitled to an order of bail.

DISCUSSION:

7 Perusal of the file reveals that the allegation against the accused-applicant is that it was accused/applicant who had introduced the prosecutrix with the remaining accused and was instrumental in the commission of alleged offence. The challan against accused Hira Singh and Gurlal Singh has been presented and has been committed. The accused Angrej Singh had been admitted on interim bail by the Hon'ble Punjab and Haryana High Court. On the basis of the evidence led by the prosecution, the accused applicant was summoned to face trial vide order dated 01.12.2022. The allegations hurled against the applicant/accused are serious in nature and there is every likelihood that the applicant/accused would tamper with the prosecution evidence and will try to win over the prosecution witnesses. Considering the facts and circumstances of the present case and the nature of allegations put-forth by the complainant against the accused and the gravity of the offence, the court is of the

opinion that the present bail application filed by accused Kulwinder Kaur is devoid of any merit and same is hereby dismissed. It is made clear that nothing expressed in the said order shall have any bearing on the merits of the main case. Papers be attached with the main file.

**Pronounced in open court
Dated: 05.07.2023**

**Neetika Verma,
Additional Sessions Judge
Tarn Taran/UID-PB0209**

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Present : Sh. Jarnail Singh Johal Advocate, learned counsel for
the accused-applicant.
Shri Satinderjit Singh Gill, learned Additional Public
Prosecutor for the State

Judicial file received today. Arguments heard. Vide my
separate detailed order of even date, the present bail application stands
dismissed and papers be attached with the main file.

Pronounced in open court
Dated: 05.07.2023

Neetika Verma,
Additional Sessions Judge
Tarn Taran/UID-PB0209

Typed by Aman (Steno)