

**In the Court of Ajaib Singh,
Judge Special Court,
Kapurthala
(UID No.PB0120)**

CNR No. PBKP010000062023



Case No. BA/17/2023

Presented on : 02-01-2023

Registered on : 03-01-2023

Decided on : 21-01-2023

Baldev Singh, aged about 73 years, son of Bhagat Singh, resident of village Begowal, Ward No.2, Tehsil Bholath, District Kapurthala.

.....Accused/applicant

Versus

State of Punjab

.....Respondent

FIR No.87 dated 31.10.2022
Under Sections 376AB of IPC &
section 4,6 of Protection of Children from Sexual
Offence Act (amended in year 2019), 2012
Police Station: Begowal
District Kapurthala

Application for bail under Section 438 Cr.P.C.

Present: Shri Lakhbir Singh Advocate, for applicant/accused.
Shri Reena Rani, learned Addl. PP for State
Shri SPS Tandi, Advocate for the complainant.

ORDER

The applicant, namely Baldev Singh son of Bhagat Singh, resident of village Begowal, Ward No.2, Tehsil Bholath, District Kapurthala, wanted accused in the present case, has filed the present application for bail under section 438 of Cr.P.C.

2. The notice of the application for bail was issued to the State/also to complainant-victim. The learned Addl.PP for the State and Shri SPS Tandi, Advocate for the complainant and complainant in person, on receipt of notice of the same have appeared to contest the same, on producing record by investigation agency with regard to investigation conducted till date for said purpose.

3. The arguments with regard to the application for bail under section 438 of Cr.P.C moved by the applicant/accused, on receiving the record of the investigating agency, pertaining to aforesaid FIR, are heard and the record is perused and it is found that the case of the prosecution as per statement of the complainant Parminder Kaur wife of Gurpreet Singh resident of Ghore Shah Awan, PS Tanda, District Hoshiarpur and then resident of Ward no.02 Balapeer Road, Begowal, District Kapurthala aged about 29 years is that her husband had returned from German about one month ago. The complainant alongwith her family including her elder daughter aged about 12 years, her younger to her daughter/victim ABC (whose name as per statement of complainant has been withheld as per section 228-A of I.P.C) aged about nine years date of birth 30.07.2013 and her son aged about one year, has been residing at the given address of village Begowal, Kapurthala, as tenant of the applicant/accused. The complainant with her husband and son went to take medicine from Preet Medical Store Jalalpur on 30.10.2022 and when at about 3.00 P.M. returned to home then they found that her said younger daughter/victim had started weeping on

seeing them and had disclosed to them that the applicant/accused had called her upstairs and had given her Rs.20/- and thereafter had taken her inside the room, had removed her lower (pajama) and had also removed his clothes and thereafter had inserted finger into her private part and had committed obscene acts with her, upon which, the victim had raised alarm and had started crying and had rushed downstairs. The complainant thereafter along with her husband finally reported the matter to the police and also prayed for legal action against the applicant/accused. The investigation was initiated after registration of the FIR of the case, during the course of which, site plan of place of occurrence was prepared, photocopy of birth certificate of victim was taken in the possession, the victim was subjected to her medico legal examination, the victim was also produced before the learned SDJM Bholath where her statement under section 164 Cr.PC was recorded, the offence punishable under section 376 of IPC vide DDR no.12 dated 12.12.2022 was deleted and the offence under section 376-AB of IPC was added in the case and the applicant/accused is at large and investigation of the case is still pending to that effect.

4. The main stand of the applicant/accused is that the applicant/accused is aged about 73 years, being numberdar of village is respectable person of the area, ex-sarpanch and ex-councillor of Nagar Panchayat Begowal and is innocent person but has been falsely implicated in this case due to party faction. In fact the applicant/accused is suffering from paralysis and is unable to move without help (copy of medical certificate

annexed) and the complainant is tenant of the applicant/accused and is in arrears of rent and she has not paid electricity bills nor vacated the house of the applicant/accused inspite of many demands and is intending to grab the house of the applicant/accused by implicating him in this false case. The victim, as per next stand taken by the applicant/victim, has no injury on her person nor the MLR of the victim shows anything attracting the provisions of section 376 of IPC and nothing is to be recovered from him and the applicant/accused being law abiding citizen is ready to join the investigation if upon doing so is released on bail as prayed by him, in terms of which, the record, after hearing the arguments, has been perused and it found that the complainant Parminder Kaur has suffered statement on 19.01.2013 that she along with her said family earlier was residing in the house of the applicant/accused on rent and she had left the tenanted premises in the month of December, 2022 after compromise with the applicant/accused and she did not want to proceed with the present case because her husband had been residing in Portugal while she along with her two daughters and one son had been living alone in her village Awan Ghore Shah and she had no objection if the application for bail under section 438 of Cr.PC was allowed and the applicant/accused was allowed on anticipatory bail. The stand taken by the applicant/accused is not found to be sustainable from any angle because the victim a minor girl aged about 09 years in her statement under section 164 of Cr.PC has also levelled specific allegations against the applicant/accused for committing indecent acts and sexual assault upon her and the complainant during her

statement stated she had effected compromise with the applicant/accused and she was living alone with her children so is not willing to continue the present case and is also not sustainable in the eyes of law because the offence involved in the present case is not compoundable offence, rather it seems that the victim has not suffered from the hands of applicant/accused only rather is also suffering from the hands of her own mother who seems to be stepping back due to her own circumstances, and no extra ordinary ground for the concession of anticipatory bail in favour of the applicant/accused is made out and resulting of which, the said plea taken by the applicant/accused is not found to be sustainable from any angle to the said effect because the applicant/accused as per case of the prosecution has allegedly committed a heinous crime against a minor female child aged about 09 years and the alleged act of applicant/accused for commission of heinous crime is dangerous for the society as well and resulting of which, present the application for bail under section 438 of Cr.P.C moved by the applicant/accused is dismissed even without commenting on merits of the present case. The copy of this order be kept on the remand papers pending against the applicant/accused. The record of present the application for bail be consigned to record room (J) Kapurthala.

Pronounced in the open Court
Dt.21.01.2023

(Nirlep Kaur)

(Ajaib Singh)
Addl.Sessions Judge/
Judge Special Court,
Kapurthala
(UID No.PB0120)

CNR No. PBKP010000062023



Case No. BA/17/2023

Presented on : 02-01-2023

Registered on : 03-01-2023

Decided on : 21-01-2023

Present: Shri Lakhbir Singh Advocate, for applicant/accused.
Shri Reena Rani, learned Addl. PP for State
Shri SPS Tandi, Advocate for the complainant.

The further arguments with regard to the application for bail under section 438 of Cr.PC moved by the applicant/accused are heard and the same vide separate detailed order of even date has been dismissed as stated therein the same. The file has also been ordered to be consigned to record room (J) Kapurthala.

Pronounced in the open Court
Dt:21.01.2023

(Nirlep Kaur)

(Ajaib Singh)
Addl.Sessions Judge/
Judge Special Court,
Kapurthala
(UID No.PB0120)