

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-14468 of 2015

Date of Decision: 5.5.2015

Dara alias Pintu

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Darshan Singh.

Present: Mr. Sukhjit Singh, Advocate
for the petitioner(s).

Darshan Singh, J.

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C.") for grant of anticipatory bail to the petitioner in case FIR No. 189 dated 12.7.2014, registered under Section 363 & 366-A of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") and Section 376 IPC (added later on) at Police Station Phillaur, Jalandhar.

2. As per the prosecution allegations, the prosecutrix, aged about 15 years and a student of 9th class was administered intoxicant tablets by Manpreet and his mother and left her at Goraya, where she was handed over to a boy who used to drive a Combine. That boy took the prosecutrix to Feorzepur and he committed rape upon her. He left her at the house of one Rinku. He also raped her and kept her as his wife for about eight months. Thereafter, she was searched by her father and was brought to home.

3. The present case was registered on the statement of Manohar

Lal, father of the prosecutrix, initially under Sections 363 & 366-A IPC. But after the statement of the prosecutrix, Section 376 IPC was also added. The application of the petitioner for grant of anticipatory bail was dismissed by the Additional Sessions Judge, Jalandhar vide order dated 13.4.2015. Hence, this petition.

4. Learned counsel for the petitioner contended that the petitioner has not been named either in the FIR or in the statement of the prosecutrix recorded under Section 164 Cr.P.C. He further contended that there is a serious doubt about the identity of the culprit. The prosecutrix has resided with Rinku for a period of more than eight months. Thus, no offence of rape is made out. The petitioner is ready to join the investigation. Nothing is to be recovered from his possession. So, he is not required for any custodial interrogation.

5. On the other hand, learned State counsel contended that there is no doubt about the identity of the culprit. His identity has been established during the investigation. He has committed rape upon a minor girl and he is not entitled for the concession of anticipatory bail.

6. I have duly considered the aforesaid contentions.

7. There is absolutely no dispute with the proposition of law that the anticipatory bail is an extraordinary privilege and can only be granted in the exceptional cases. In the instant case, there are serious allegations of the rape of minor girl and she has been changed the hands from one culprit to other. It has been found during investigation that Manpreet and Piari had handed over the prosecutrix to the petitioner. The prosecutrix may not be conversant with the exact name

of the petitioner. Due to that reason, there can be omission in the name of the petitioner in the statement of the prosecutrix. The Additional Sessions judge has observed in her order dated 13.4.2015 that during investigation, it has come that she was handed over by co-accused Manpreet and Piari to the petitioner. There are specific allegations that the rape was committed upon the prosecutrix by the petitioner. Thus, the petitioner has not been able to make out any case for grant of the extraordinary privilege of the anticipatory bail.

8. Thus, keeping in view my aforesaid discussion, the present petition has no merit and the same is hereby dismissed, in limine.

(Darshan Singh)
Judge

May 5, 2015
"DK"