

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-16566 of 2015 (O&M)

Date of decision : August 04, 2015

Jagdish Singh

... Petitioner

vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. A.S. Kalra, Advocate
for the petitioner.

Mr. P.S. Ghuman, Addl. A.G. Punjab.

Mr. Manbir Singh Basra, Advocate
for the respondent.

Surinder Gupta, J

Heard.

The petitioner has been summoned by the Judicial Magistrate Ist Class, Gurdaspur on the complaint filed by the prosecutrix for offence punishable under Section 376 IPC. As per prosecutrix, the incident of rape took place on 18.6.2011. The complaint was filed in the court on 10.5.2012. Learned State counsel has submitted that the police did not receive any complaint from the prosecutrix regarding the incident.

Learned counsel for petitioner argues that wife of petitioner had earlier filed a complaint against the prosecutrix for offence punishable under Section 380 IPC and as a counter blast this complaint has been filed.

Learned counsel for complainant argues that the petitioner is a police official. He has pleaded the plea of *alibi* which is a matter of evidence. Keeping in view the gravity of offence, benefit of anticipatory bail cannot be extended to the petitioner. He has referred to the observations of the Supreme Court in the case of *State of Maharashtra and Anr. vs. Mohd. Sajid Husain Mohd. S. Husain etc.*, 2007 (4) RCR (Criminal) 581, *Rakesh and another vs. Iqbal Masih and another*, 1997 (2) RCR (Criminal) 246 and *Court on its own motion vs. Sanjeev*, 1995 (1) RCR (Criminal) 237.

Perusal of the facts of cases in the above referred citations are clearly distinguishable from the facts of the present case. In the instant case the petitioner has taken the plea of false implication for the reason that his wife had got registered an FIR against the complainant. Even otherwise it is a complaint case where custodial interrogation of the petitioner is not required. The complainant has already deposed before the court when preliminary evidence was recorded, as such, there are no chances of her being pressurized if bail is allowed to the petitioner.

In view of the above facts and that the petitioner has surrendered before the court, the instant petition is allowed and the interim order dated 27.5.2015 passed in this case is made absolute on the terms mentioned therein.

(Surinder Gupta)
Judge

August 04, 2015
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