

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**Criminal Misc. No. M-28131 of 2015
Date of decision: 01.10.2015**

Sandip Kumar

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see judgment? Yes/No**
- 2. To be referred to reporters or not? Yes/No**
- 3. Whether the judgment should be reported in the Digest? Yes/No**

Present: Mr. Surinder Thakur, Advocate
for the petitioner.

Ms. Ritu Punj, Addl. AG, Punjab
for the respondent - State.

Daya Chaudhary, J.

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner-Sandip Kumar in case FIR No.114 dated 26.08.2014 registered under Sections 363, 366-A, 120-B of Indian Penal Code at Police Station Sadar Hoshiarpur, District Hoshiarpur and Section 376 IPC, which was added later-on vide DDR No.36(A) on 16.04.2015.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case whereas he was not involved in the alleged offence. The petitioner was having love affair with Harpreet Kaur, who is sister of the complainant, for the last three

years and he is also possessing certain photographs with sister of the complainant to prove the factum of love affair but it came in the knowledge of the family members of Harpreet Kaur and they threatened the petitioner and his family members. Learned counsel further submits that the petitioner is still ready to marry with the sister of the complainant and the offence under Section 376 IPC was added after a period of eight months. The family members of the petitioner also filed a complaint before Punjab State Human Rights Commission regarding false implication in the case and a cognizance was also taken thereupon, which is clear from the report (Annexure P-9).

Learned State counsel opposes the submissions made by learned counsel for the petitioner keeping in view the seriousness of the offence. Learned State counsel also submits that the sister of the complainant was minor at the time of commission of offence and after recording her statement under Section 164 Cr.P.C., offence under Section 376 IPC was added. The concession of anticipatory bail should not be given to the accused, who is involved in commission of such like heinous crimes.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the contents of the FIR and other documents on the file.

The FIR was registered on the basis of complaint made by Amardeep Singh, who is brother of the prosecutrix. As per allegations levelled in the FIR, the sister of the complainant was student of 10+2

class and was aged about 17 years. On 28.07.2014, she did not return home and despite making all possible efforts to search her, she could not be found. It was also stated by the complainant in the FIR that earlier also, the accused used to harass her and she was enticed away on the pretext of marriage. Initially, FIR was registered under Sections 363, 366 (A) and 120-B IPC and subsequently, after recording the statement of the prosecutrix under Section 164 Cr.P.C., offence under Section 376 IPC was added. In the statement recorded under Section 164 Cr.P.C., she has also stated that she wanted to accompany her mother and brother without any pressure as earlier, she was sent to Vanita Ashram/Nari Niketan, Jalandhar in view of the statement suffered by her.

In the statement recorded under Section 164 Cr.P.C., not only the specific role has been attributed to the petitioner but allegations of commission of rape upon the prosecutrix are also there.

Admittedly, the prosecutrix was minor at the time of commission of offence and as such, keeping in view her age and the allegations levelled in the FIR as well as in the statement of the prosecutrix recorded under Section 164 Cr.P.C., no ground is made out to grant anticipatory bail to the petitioner. Hence, the petition being devoid of any merit is dismissed.

01.10.2015
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(DAYA CHAUDHARY)
JUDGE