

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-38630 of 2014 (O&M)

DATE OF DECISION: 19.10.2015

Aman Sharma

.....Petitioner

Versus

State of Punjab

.....Respondent

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. **Whether reporters of local newspaper 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. PKS Phoolka, Advocate
for the petitioner.

Mrs. Ritu Punj, Addl. A.G., Punjab.

Ms. Anju Arora, Advocate
for the complainant.

DAYA CHAUDHARY, J.

Crl. Misc. No. 34788 of 2015

This application has been filed for placing on record the affidavits of complainant as Annexures R-2/3 and R-2/7.

Application is allowed and Annexures R-2/3 and R-2/7 are taken on record.

Crl. Misc. No. M-38630 of 2015

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No. 152 dated 3.10.2014 registered under Sections 377/506 read with Section 34 IPC at

Police Station Lambi, District Sri Muktsar Sahib.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case and the present FIR is the counter blast to the divorce petition filed by the petitioner in the month of July, 2014. Even the complainant was not present in her matrimonial house on the date of occurrence and was away to her parental house. Learned counsel further contends that prior to lodging of the present FIR, there was not even a single incident of harassment or cruelty and even no injury was caused by the petitioner. Nothing is to be recovered from the petitioner and he is ready to join investigation.

Learned counsel for the respondent-State opposes the submissions made by learned counsel for the petitioner. She submits that after the marriage, the petitioner and complainant remained together only for a short period and during that period, the complainant was not only harassed but she was given beatings also. As per allegations, on 28.8.2014, when the complainant was alone in her room, the petitioner as well as co-accused, namely, Rinku @ Guruji entered her room at 12.00 midnight. Rinku @ Guruji caught hold the complainant from her arms and petitioner-Aman Sharma committed sexual intercourse as well as unnatural sex with the complainant without her consent. The video movie as well as the photographs of the incident were also prepared. The petitioner was granted interim bail by this Court on 13.11.2014 but he did not cooperate in the investigation and despite giving an opportunity, the recovery could not be effected.

Learned counsel for the complainant opposes grant of anticipatory bail to the petitioner on the ground that specific allegations are there against the petitioner and co-accused. Subsequently, a threat was also given to the complainant to put pressure upon her to withdraw the

case against the petitioner.

Heard the arguments advanced by learned counsel for the parties and have also gone through the contents of the FIR and other documents available on the file.

A perusal of the allegations levelled in the FIR would show that the present FIR was registered on the basis of statement made by complainant, wherein, it has been stated that she solemnized love marriage with the petitioner and after staying for one week at Chandigarh, she came to her matrimonial house. It is also stated that as it was a case of inter caste love marriage and all the family members of the petitioner were not happy. There are specific allegations that on 28.8.2014, the petitioner and co-accused Rinku @ Guruji entered into the room of the complainant during midnight and committed sexual intercourse/unnatural sex without the consent of the complainant on the instigation of co-accused Rinku @ Guruji. A CD of the incident was prepared and a threat was also given to the complainant to expose the same on internet for public view. It is also the allegation that signatures of the complainant were obtained on the blank paper for filing divorce petition.

While issuing notice of motion on 13.11.2014, interim bail was granted to the petitioner and he was directed to join investigation but in spite of giving various opportunities, the petitioner did not cooperate in the investigation as the CD was not got recovered from him.

Reply on behalf of the respondent-State has also been filed and the same is on record. It has been mentioned in the reply that the petitioner has joined the investigation but he did not cooperate during investigation as the recovery of obscene movie, mobile phone set has not been effected from him. The custodial interrogation of the petitioner is required for recovery of obscene movie, mobile phone as well as the blank

papers. It has further been mentioned in the reply that due to the grudge, the petitioner and his three accomplice inflicted grievous injuries with kappa and handles of the spade to the father of the complainant and FIR No. 188 dated 17.12.2004 under Sections 326/323/324/341/506 read with Section 34 IPC was registered at Police Station Lambi.

In view of the facts as mentioned above and also the fact that the petitioner did not cooperate in the investigation in spite of giving various opportunities and that the recovery could not be effected, no ground is made out to grant anticipatory bail to him. The petition being devoid of any merit is hereby dismissed.

October 19, 2015
pooja

(DAYA CHAUDHARY)
JUDGE