

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM No. 13719 of 2015 in  
CRM No. 8482 of 2015 in/and  
CRM No. M-7306 of 2015 (O/M)  
Date of decision : 5.5.2015

Rajesh Kasera

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Rajiv Kataria, Advocate, for the applicant-petitioner.

Mr. Ayuwan Singh, Assistant A.G., Haryana.

Mr. Sukhvinder Singh Nara, Advocate,  
for the applicant-complainant.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH, J.

CRM No. 13719 of 2015 in CRM No. 8482 of 2015

Prayer in this application is for placing on record reply to the application being CRM No. 8482 of 2015, filed by the complainant.

Reply to the application i.e. CRM No. 8482 of 2015 is

taken on record.

Application is disposed of accordingly.

Main case

This is second anticipatory bail application moved by the petitioner for grant of bail in FIR No. 555 dated 16.9.2014, registered under Sections 376, 328, 506 IPC read with Section 4 of the Protection of Children from Sexual Offences Act, 2012 (in short 'the POCSO Act'), at Police Station DLF Qutab Enclave, Gurgaon.

As per the allegations levelled in the FIR, on 27.7.2014, the accused asked the prosecutrix to come to a party in Hotel Western, Gurgaon, in connection with her employment. Suffice to say that in the said party several persons were present and that there, some intoxicant was served to the prosecutrix in a drink called 'Red Bull' and thereafter she was told that she was to compromise for getting job and she was raped 2/3 times. The accused was also having a mobile in his hand and prosecutrix suspects that her photographs have been taken and movie has been prepared.

First application moved by the accused before this Court was withdrawn on 13.2.2015 after making some submissions.

Learned counsel for the petitioner has vehemently argued that in this case, after the registration of FIR, the prosecutrix and her mother had made a statement under Section 164 Cr.P.C. on 16.9.2014 before the learned Judicial Magistrate 1<sup>st</sup> Class, Gurgaon, wherein it was stated that nothing wrong happened and the

complaint was filed under mistaken belief. However, they had again made statement before the learned Judicial Magistrate 1<sup>st</sup> Class, Gurgaon, on 13.1.2015, wherein the allegations made in the complaint have been repeated. It has been argued that at one stage police wanted to cancel the case, but now for the ulterior motive, the prosecutrix and complainant are again levelling the same allegations. It has been argued that earlier the cancellation report was forwarded. However, the matter was re-investigated.

I have heard learned counsel for the parties and have also carefully gone through the file and police file.

After going through the police file, I am of the view that at the bail stage, it cannot be decided that the complaint made by the complainant and prosecutrix is false. There are specific verifiable allegations to the effect that the prosecutrix was in need of job and that the accused, who is running the business of dry fruit shop and was previously known to the mother of the prosecutrix, invited her (prosecutrix) to Hotel Western, Gurgaon and there, she was served with an intoxicated drink and later on, she was raped. The effect of delay is not to be examined at bail stage.

Keeping in view the allegations that the prosecutrix was allegedly intoxicated by deceitful means and later on, she was raped thrice in the said hotel, I am of view that it is not a fit case where anticipatory bail should be granted. The allegations need to be thoroughly investigated and verified, for which the custodial

CRM No. M-7306 of 2015 (O/M)

SANJIV KUMAR SHARMA  
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I attest to the accuracy and  
authenticity of this document

interrogation of the petitioner is necessary.

As such, the present application for anticipatory bail is  
dismissed.

(KULDIP SINGH)  
JUDGE

5.5.2015  
sjks