

Crl. Misc. No.M-18566 of 2016

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

Crl. Misc. No.M-18566 of 2016

Date of Decision: 26.05.2016

Surender

....Petitioner

Versus

State of Haryana

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see the 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. R.N. Lohan, Advocate
for the petitioner.

DAYA CHAUDHARY, J. (ORAL)

This petition has been filed under Section 438 Cr.P.C for grant of anticipatory bail to the petitioner in case FIR No.301 dated 23.04.2016 registered under Sections 376/452/34 IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act at Police Station City Hansi, District Hisar.

Learned counsel for the petitioner submits that petitioner is a young man of 28 years of age. It was a case of false implication as the complainant is habitual in making complaints and the present case has also been registered just to extort money from the petitioner and on account of political rivalry in the Village. He further submits that the complainant

demanded a sum of ₹ 3 lacs from brother of the petitioner and a raid was conducted and recovery was also effected. He further submits that the complainant along with one Rinku has constituted a gang for extortion of money and registration of false cases against innocent persons. There is delay of 25 days in lodging of FIR and the offence has been shown to be committed in the presence of mother-in-law of the complainant, which is not practically possible.

Heard the arguments of learned counsel for the petitioner and have also perused the allegations levelled in the FIR.

As per allegations levelled in the FIR, not only specific role has been attributed to the petitioner but it has also been mentioned that rape was committed in the presence of mother-in-law of the complainant. The allegations levelled in the FIR finds corroboration from the medical examination of the victim. It cannot be said that just because money was alleged to be demanded and same was also recovered on conducting raid by the raiding party, no such act has taken place. It might be that the petitioner or his brother has offered to pay the amount after informing the police. Making complaint against the complainant is an independent act and for that FIR has been registered. For granting anticipatory bail, only the allegations are to be seen and it cannot be said that these allegations are false or not as *prima facie* it is to be seen as to whether the offence is made out or not. Even in the FIR registered against the complainant, only the allegations are there and simply saying that the money was recovered and a false case was registered against the petitioner, is not sufficient. Nothing has been brought in the notice of the Court as to whether earlier any complaint or FIR was registered against the complainant or not. Simply by

saying that the complainant is habitual of making complaints as many complaints have been filed by her just to extort money, without having anything on record or any complaint against the complainant, it cannot be presumed that she is the habitual complainant.

On perusal of allegations levelled in the FIR, *prima facie*, it is evident that not only the petitioner has specifically been named in the FIR but rape has also been shown to have been committed as is also clear from the medical evidence. The order passed by the lower Court shows that there was nothing on record to show that the prosecutrix is habitual in lodging false cases against innocent persons. The case registered against the complainant will be considered separately and in case, the complainant is found to be involved as per allegations, action will be taken against her but it cannot be said that in case, the other case is there, the allegations levelled in the present case are false and the petitioner becomes entitled to grant of anticipatory bail.

Keeping in view the nature of offence and specific allegations, the benefit of anticipatory bail cannot be granted to the petitioner and the petition is accordingly dismissed.

26.05.2016
gurpreet

(DAYA CHAUDHARY)
JUDGE