

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-29689-2015 (O&M)

Date of Decision:- 19.08.2016

Sumit Kumar

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. R.S. Sihota, Senior Advocate
with Mr. Parveen Chauhan, Advocate
for the petitioner.**

Mr. A.P.S. Gill, AAG, Punjab.

**Mr. Kulbhushan Raheja, Advocate
for the complainant.**

RITU BAHRI, J. (Oral)

Petitioner is seeking grant of anticipatory bail in a case arising out of FIR No.430 dated 09.08.2015 (Annexure P-1) under Sections 376 and 120-B IPC, registered at Police Station DLF Phase-II, Gurgaon, District Gurgaon.

Prosecution claimed that a complaint was made to the police by the complainant that she was doing her M.Sc and she was living in a rented accommodation at Gurgaon in House No.53/30, S. Block. Sumit (petitioner herein) son of Mahender Singh has been in touch with her from last one

year and used to visit her and had promised that he will marry her. On 05.06.2015, he came and raped her forcibly against her will on the pretext of marriage and he continued to do so for five days. Thereafter, he went to his duty by taking ₹27,000/- from her. The complainant contacted him and he refused to return back to her. Thereafter, the complainant contacted his father Mahender Singh and he advised her to settle the matter by taking money. She was pregnant from him and in this background the FIR was registered against the accused.

Vide order dated 24.08.2015, the Court of Additional Sessions Judge, Gurgaon, has rejected the anticipatory bail application, filed by the petitioner, on the ground that after solemnization the marriage, he is running from matrimonial obligations. He has switched off his mobile and was not in touch with the complainant.

Vide order dated 03.09.2015 passed by this Court, the arrest of the petitioner was stayed, he was admitted to interim bail and statement was recorded that he will shortly join his wife, as he had been posted at District Jhunjhunu, Rajasthan. Thereafter, vide order dated 16.11.2015, learned counsel for the petitioner, on instructions from Mr. Amit Kumar, elder brother of the petitioner, has informed that the petitioner is ready to take his wife with him at Golpada. Petitioner was to arrange 2nd AC train tickets for complainant and her mother Munni Devi. On 30.03.2016, complainant and her mother Munni Devi were present in Court and informed that the petitioner was not interested in keeping her with him as wife and he was making excuses on one pretext or the other. Complainant was granted liberty to place on record the conversation with the petitioner. Thereafter,

and P-5), which includes representation sent by the counsel, reply to the representation, telephone conversation with the complainant, photographs, Skype and conversation between the uncle of the petitioner and advocate of the complainant.

This Court, vide order dated 18.05.2016, has referred the matter to the Mediation and Conciliation Centre for settlement between the parties. As per report of the mediation dated 21.07.2016, the parties could not be reached at amicable settlement.

Learned counsel for the petitioner has argued that the prosecutrix and accused Sumit are major and after registration of the FIR they have performed their marriage on 09.08.2015 in Arya Samaj Mandir, Greater Noida, U.P. The necessary marriage certificate was placed on record. She was in relationship with the petitioner and no offence under Section 376 IPC is made out against him.

I have heard the learned counsel for the parties, going through the record of the present case.

As is evident from the record that the complainant admits that she was in relationship with the petitioner for the last one year and after registration of the FIR on 09.08.2015, she solemnized the marriage with him on 19.08.2015, as per marriage certificate dated 19.08.2015 (Annexure P-2). The bail application was declined by the Court of Additional Sessions Judge, Gurgaon on the ground that after solemnization the marriage the petitioner is running from matrimonial obligations. During the pendency of present petition, strenuous efforts were also made to settle the disputes between the petitioner and complainant. However, despite order passed by

this Court on 16.11.2015, their relationship has not been improved.

As per the status report filed by the Deputy Commissioner of Police, East, Gurgaon on 09.01.2016, they resided at Golpada at Assam. After staying with the petitioner, the complainant come to Palam Airport, Delhi and thereafter attempts were being made by the police to know their whereabouts. During investigation, the petitioner was recovered on 13.01.2016 from village Nalpur, Rajasthan and brought to Gurgaon. As per the status report dated 29.01.2016, the statement of prosecutrix and petitioner were recorded under Section 164 Cr.P.C. on 14.11.2016.

Consequently, it has been transpired that the petitioner married the complainant after registration of the FIR and he had no intention to marry her right from the beginning. The marriage was solemnized only to save from the consequences. The necessary efforts have already been made to rehabilitate them but the petitioner has not been able to make any attempt for cordial relations with complainant. In this backdrop, it can be noticed that the petitioner has adopted a clever device firstly of having live-in-relationship on the pretext of marry, thereafter solemnizing marriage on 19.08.2015 and till date not rehabilitated with his wife in his matrimonial home. The intention of the petitioner now is cleared that he never wanted to marry the complainant and even the marriage solemnized by him was a fake promise. Being permanent government employee, he has merely performed the marriage to put the complainant in a worst position i.e. after separation now she will have to take remedies under the Hindu Marriage Act.

Therefore, very serious and direct allegations are assigned to the petitioner and his custodial interrogation is essential. The police is yet to interrogate him and to collect the evidence.

In the light of aforesaid reasons, taking into consideration the the allegations of offences against the petitioner and without commenting further anything on merits, the instant petition for anticipatory bail filed by the petitioner is hereby dismissed.

Needless to mention that nothing observed, here-in-above would reflect on merits of the main case, in any manner, during the course of trial.

August 19, 2016
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No