

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

**Criminal Misc. No. M-5508 of 2016
Date of decision: 30.05.2016**

Shyambir

..Petitioner

Versus

State of Haryana

..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. Sanjay Vashisth, Advocate
for the petitioner.

Mr. Baljinder Singh Virk, DAG, Haryana
for the respondent – State.

Mr. Anil Kumar Saini, Advocate
for the complainant.

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.95 dated 23.11.2015 registered under Sections 376, 377, 498-A, 323 read with Section 34 of Indian Penal Code at Police Station Women Sonapat, District Sonapat.

Learned counsel for the petitioner submits that co-accused of the petitioner including husband of the complainant have been granted bail but bail to the petitioner has been declined only on the ground that recovery of knife has not been effected and he has not cooperated with the investigation. Learned counsel further submits that the only allegation against the present petitioner is that he entered into the room of the

not reveal anything about sexual assault. The petitioner was also granted interim bail but subsequently, it has been declined solely on the ground that the recovery of knife has not been effected from him. Learned counsel also submits that earlier there was a compromise between the parties but subsequently, after making some improvements, the present FIR has been got registered at the instance of the complainant and petitioner being father-in-law has also been implicated. The incident has been stated to be told by the complainant to her mother-in-law as well but she did not take note of it. Learned counsel also submits that in such like situation, no mother-in-law would like to hear even with regard to such act done by her husband. In the first MLR conducted at Sonapat on 11.11.2015, nothing was mentioned with regard to commission of rape but in the MLR conducted subsequently on 24.11.2015, the fact of commission of rape finds mention.

Learned State counsel opposes grant of anticipatory bail to the petitioner not only on the ground of seriousness of the offence but because of the act and conduct of the petitioner, specific allegations of harassment, demand of dowry, threatening and physically assaulting on knife point as well. As far as MLR conducted on 11.11.2015 is concerned, the father of complainant was stated to be with her at the time of examination and it could not be pointed out by her because of reluctance and hesitation but subsequently, in the presence of mother, the same incident was told and the MLR was conducted on 24.11.2015. Learned State counsel also submits that the petitioner did not cooperate with the investigation and the recovery was not effected from him.

Learned counsel for the complainant submits that the FIR has

submits that in the earlier complaint, specific allegations were also there against father-in-law and the stand of the complainant is consistent from the very beginning.

Heard arguments of learned counsel for the parties and have also perused the allegations levelled in the FIR and other documents available on the file.

Undisputedly, co-accused of the petitioner including husband of the complainant have been released on anticipatory bail but as far as the case of the petitioner is concerned, the allegations against him are different from other accused and the bail of the petitioner has been declined only on the ground that the recovery of knife could not be effected from him, which shows that the petitioner has not cooperated with the investigation. Moreover, FSL report is still awaited and specific allegations are there against the petitioner with regard to demand of dowry and physical assault.

A perusal of MLRs would show that there is variation in both the MLRs and nothing can be said at this stage unless the FSL report is received.

The petitioner, therefore, does not deserve the concession of anticipatory bail and the petition is hereby dismissed.

However, in case, the petitioner surrenders before the trial Court and moves an application for regular bail, the trial Court is directed to decide the same in accordance with law within a period of one week thereafter.

30.05.2016
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(DAYA CHAUDHARY)
JUDGE