

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

Crl. Misc. 28767 of 2017 in/and
Crl. Misc. M-29581 of 2017 (O&M)
Date of Decision: September 12, 2017

Jashandeep Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Inder Pal Singh, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG Haryana.

Mr. Sunny Deep Juneja, Advocate
for the complainant.

JAISHREE THAKUR, J. (Oral)

Crl. Misc. 28767 of 2017

Application is allowed.

Documents are taken on record, subject to all just exceptions.

Main case

This is a petition that has been filed under Section 438 Cr.P.C.
for grant of anticipatory bail to the petitioner in FIR No.188 dated
19.06.2017, under Sections 323, 376, 506 of Indian Penal Code registered at
Police Station Women, District Gurgaon.

In brief, the allegations are that complainant, who got separated

without a divorce from Rajesh Bhan, was living with the petitioner from 16.08.2015 at Gurgaon. The petitioner had been disclosed regarding her earlier marriage and about the birth of a son from the said marriage. Despite this information, a marriage was performed at the Arya Samaj Temple on 04.12.2015. On account of the fact that the petitioner had initially made a forcible relationship with her and also threatened to kill her, she got registered an FIR under Sections 376, 384, 506, 379, 323, 313, 354 of Indian Penal Code at police station, pursuant to which the petitioner and his family members apologized and asked her to withdraw the case. It is thereafter that the marriage was performed. After the said marriage, the petitioner was again blackmailed and she was threatened that her objectionable videos, which were in his possession, would be uploaded on the internet. As the allegations of Section 376 of Indian Penal Code were also made out, the anticipatory bail application of the petitioner was rejected by the learned Addl. Sessions Judge, Gurgugram and it is against the said order that the instant petition has been filed.

Learned counsel appearing on behalf of the petitioner contends that the complainant is a married woman, who entered into a compromise with the petitioner without taking a formal divorce from her first husband, while denying that he had threatened and blackmailed her with her photographs and objectionable videos or that he had extorted her or that he had blackmailed or resorted to extortion. It was also argued that no offence under Section 376 of Indian Penal Code is made out, as alleged.

Per contra, learned counsel appearing on behalf of the respondent-State and the complainant argued that the matter has to be

investigated, for which custodial interrogation of the petitioner-accused is required.

I have heard counsel for the parties and perused the record of the case.

While dealing with the petition under Section 438 Cr.P.C., the court is required to examine the material collected by the prosecution or the complainant and if the court is prima facie of the opinion that there is sufficient material available, then the extraordinary relief of anticipatory bail can be denied. In the instant case, there are allegations that the petitioner-accused has committed the offence of rape and has blackmailed and threatened her with uploading of her objectionable photographs and videos. As a matter of concern, the said photographs and videos are yet to be recovered. In such a case, where the custodial interrogation of the accused is required for the result oriented investigation, this court is not inclined to grant the relief of anticipatory bail to the petitioner.

In view of the above, the petition in hand is hereby dismissed.

Anything observed hereinabove shall have no affect on the merits of the case.

September 12, 2017

vijay saini

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No