

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

Crl. Misc. M 19945 of 2018 (O&M)
Date of Decision: 1.8.2018

Shesha Singh alias Shisha Ram

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Sawan Choudhary, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

JAISHREE THAKUR, J.

This is a petition that has been filed under Section 438 of the Code of Criminal Procedure seeking grant of anticipatory bail by the petitioner in FIR No. 38 dated 29.3.2018 registered under Sections 376, 506 IPC and Section 6 of the Protection of Children from Sexual Assault Act, 2012 at Police Station Pillukhera, District Jind.

In brief, the facts are that the complainant, who is the real daughter of the petitioner got registered the aforesaid FIR stating that offence of rape had been committed upon her by her father, while threatening to kill her mother and brother. It is alleged by the prosecutrix that when the petitioner, who is serving in the Army used to come home leave, he used to commit rape upon her and even after her marriage was threatening to kill her mother, brother and in-laws family. The bail

application was rejected by the learned Additional Sessions Judge, Jind, against which the instant petition has been filed.

Learned counsel appearing for the petitioner contends that the allegations as set out in the FIR are false and unsustainable and he has been falsely implicated only with a view to usurp the agricultural land. It is contended that the petitioner being father of the prosecutrix had all love and affection for her daughter and got her married with great pomp and show. Learned counsel further argues that the petitioner has also a minor daughter, who is younger to the complainant, residing in the parental home and she has never raised any such allegations against him. The petitioner also relies on four affidavits, which have been sworn by the family members of the petitioner, stating that no such occurrence had ever taken place and the instant FIR has been falsely registered only with a view to usurp agricultural land by the in-laws of the prosecutrix. It is also argued that there is no medical on the record or any complaint having been lodged prior to the registration of the instant FIR which would falsify the allegations as levelled in the FIR, therefore, the petitioner is entitled to grant of anticipatory bail.

Per contra, learned counsel appearing on behalf of the respondent—State vehemently opposes the bail application, while submitting that a CD had been made available to the Investigating Officer, which would reflect that the petitioner herein was abusing his daughter and in such a situation, his custodial interrogation is required. Therefore, he should not be granted the concession of anticipatory bail.

I have heard learned counsel for the parties, apart from perused the pleadings made available.

By order dated 31.5.2018, the learned State counsel had been directed to make available transcript of the CD that had been made available to the Investigating Officer. Today a transcript copy of the CD has been tendered, which is taken on record. A bare perusal of the transcript would reflect that profane language has been used by the petitioner while talking to her daughter. A father is not expected to talk to her daughter in a way as has been described in the transcript. This Court is conscious of the fact that though the authenticity of the CD is yet to be established by leading expert evidence, still prima facie this is a shocking case, where a person will hang his head in shame once he goes by the conversation, which took place between the duo i.e. father and daughter. This Court itself is feeling embarrassed to reproduce the profane language used by the father while talking to her daughter, keeping in view the dignity of the prosecutrix. Thus, reading of the transcript is repulsive. Therefore, keeping in view the allegations that have been levelled against the petitioner, which pertain to having committed rape upon the prosecutrix i.e. his own minor daughter, as such, his custodial interrotation would be required.

Thus, no ground for anticipatory bail is made out. Dismissed.

However, it is made clear that nothing observed herein shall be construed as an expression on the merit of the case and the observations have been made only for the purpose of deciding the bail application.

(JAISHREE THAKUR)
JUDGE

1.8.2018
prem

Whether speaking/reasoned
Whether reportable

Yes
No