

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

CRM-M-3324-2017

Date of decision: 20.02.2018

Rajesh Hans

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rakesh Kumar, Advocate,
for the petitioner.

Mrs. Anju Arora, Addl. A.G., Punjab.

Ms. Puja Chopra, Amicus curiae
for the complainant.

JAISHREE THAKUR, J. (ORAL)

This is a petition that has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No. 235 dated 27.10.2016 under Sections 376/120 IPC, registered at Police Station City, Kapurthala, District Kapurthala.

The background of the case is that the complainant was initially married with Kulwinder Singh and out of this wedlock one daughter was born. However, she got Panchayati divorce from him. She thereafter got into a relationship with Jagdish Kumar son of Gautam Hans and married with him and out of this wedlock two children were born. Jagdish Kumar unfortunately passed away on 11.11.2014 and thereafter she got into relationship of cousin of Jagdish Kumar, namely, Rajesh Hans, the petitioner herein. In the FIR, it was alleged that physical relations were

developed with Rajesh Hans on the pretext of marriage to that extent certain affidavits were also executed. However, since the petitioner herein refused to marry, an FIR No. 235 dated 27.10.2016 under Sections 376/120 IPC, was got registered by the complainant against the present petitioner at Police Station City, Kapurthala, District Kapurthala.

I have heard learned counsel for the parties and have also gone through the case file.

At the present moment this Court is seized of the matter whether anticipatory bail should be granted to the petitioner or not? The question whether or not an offence under Section 376 IPC is made out is to be decided after evidence is led before the trial Court. Under no circumstances, opinion of this Court or any observations made by this Court is to be deemed to be read in favour of the petitioner, who has to face the consequences of the FIR that has been registered against him under Section 376 IPC, which is an allegation of rape.

However, during the pendency of the petition an offer had been made to settle the dispute with the complainant for a sum of ₹ 50,000/- for the purpose of obtaining bail. This offer has not been accepted by the complainant being wholly inadequate, by submitting that she had been taken advantage of.

Consequently, the petition is allowed and interim order dated 08.03.2017 is hereby made absolute subject to the condition that the petitioner will not tamper with evidence or hamper the investigation; will not leave India without permission of the Court and will comply with the conditions contained in Section 438(2) Cr.P.C. However, while confirming the bail, the petitioner herein is directed to deposit a sum of ₹ 50,000/- with

the trial Court to be disbursed to the complainant herein in case she succeeds in the said matter.

The petition stands disposed of accordingly.

20.02.2018

Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes.
No.