

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

1. Criminal Misc. No.M- 38538 of 2017(O&M)
Date of Decision: March 08 , 2018.

Rajeev Ahuja PETITIONER(s)

Versus

State of Haryana RESPONDENT (s)

2. Criminal Misc. No. M- 42044 of 2017(O&M).

Rekha Gupta PETITIONER(s)

Versus

State of Haryana RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sunil Kumar Jha, Advocate and
Mr. Rajiv Ranjan, Advocate
for the petitioner in CRM No.M-38538 of 2017.

Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner in CRM No.M-42044 of 2017.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This order shall dispose of CRM No.M-38538 of 2017 (Rajeev Ahuja v. State of Haryana) and CRM No.M-42044 of 2017 (Rekha Gupta v. State of Haryana). Facts are being extracted from CRM No.M-38538 of 2017.

Prayer in both the petitions is for grant of anticipatory bail to the petitioners in FIR No.326 dated 14.09.2017 under Sections 376/328/34 IPC, registered at Police Station Murthal, District Sonapat.

As per allegations in the FIR, the complainant was working as a Salesgirl for the last 8-9 years at a Beauty Parlour. She has four daughters and a son. Her husband is a Salesman at Karol Bagh. The petitioner-Rekha Gupta is stated to be a visitor at the parlour and the petitioner-Rajeev Ahuja an employee at the parlour. The complainant was asked to join a party by both the petitioners on 16.07.2017. All of them went to a hotel on the said date at 10.30 a.m. As per allegations, a cold drink was served to the prosecutrix on which, she became unconscious. On regaining consciousness, she found herself to be disrobed with pain in her lower abdomen. The petitioners started fighting with each other. The petitioner-Rekha Gupta argued with the petitioner-Rajeev Gupta for committing a wrong act with the complainant. It is further stated that the prosecutrix came out of the hotel quietly without informing anyone, but on the way she was made to sit in the vehicle by both the petitioners. She however managed to escape from the running vehicle, but she was again taken into the vehicle and left at her home. It is stated that the complainant did not disclose these facts to her family members out of fear. On 22.08.2017, the complainant allegedly consumed excess pain-killers. Thereafter, the present FIR seeking action against the petitioners was lodged.

Contentions on behalf of the petitioner-Rajeev Ahuja as noted on 02.11.2017, read as under:-

“Apart from referring to the contradictions in the statements at

Annexures P14 and P15, learned counsel for the petitioner submits that the improbability of the averments by the prosecution is writ large. The prosecutrix who is admittedly working as a Sales girl in a Beauty Parlour was regularly attending her duties subsequent to 16.07.2017. While referring to the photographs (Annexure P6), it is submitted that the prosecutrix was clearly leading a normal life. There is no explanation for the prosecutrix for waiting till 22.08.2017 to lodge a complaint. Moreover, the male person figuring in the photographs with the complainant in Annexure P6, is not the petitioner. The complainant is admittedly a married lady having four daughters and one son.”

It is further submitted that the complainant admittedly continued to attend her work after the alleged incident and raised no protest for over month, which on the face of it is improbable in case there had been any truth in the allegations against the petitioners. It is submitted that both the petitioners have joined investigation and they undertake to face the proceedings and not misuse the concession of anticipatory bail, if afforded to them. The final report under Section 173 Cr.P.C., it is stated, has been presented. Therefore, it is prayed that both the petitions be allowed.

Learned counsel for the State, on instructions from ASI Chain Singh, submits that both the petitioners have joined investigation and final report under Section 173 Cr.P.C. has since been presented in this case on 06.03.2018. The petitioners are not involved in any other criminal case. There are no allegations on behalf of the State that the petitioners are likely to abscond or that they are likely to dissuade the witnesses from deposing true facts before the Court, if released on bail.

It is noticed that learned counsel for the State, on instructions from

SI Kuldeep Singh, on 02.11.2017 had submitted that the man in the first two photographs (Annexure P6) was indeed the petitioner-Rajeev Ahuja. However on the next date of hearing i.e. 12.01.2018, it was stated on instructions from the same officer i.e., SI Kuldeep Singh that the person reflected in the two photographs (Annexure P6) is actually not the petitioner and it was under some misconception that such a statement was made before this Court on 02.11.2017. The Superintendent of Police, Sonipat was directed to look into the matter and file a status report.

Status report dated 07.03.2018 by way of affidavit of Mr. Satender Kumar, IPS, Senior Superintendent of Police, Sonipat, filed in Court today, is taken on record subject to just exceptions. It is stated therein that a regular departmental enquiry has been initiated against SI Kuldeep Singh for grave negligence and the matter shall be taken to its logical end. In view of the said affidavit, no further orders in this report are being passed at this stage. Report after conclusion of the enquiry be submitted, preferably within four months from today.

Keeping in view the facts and circumstances as above but without commenting upon or expressing any opinion on the merits of the case, both the petitions are allowed. Consequently, order dated 12.01.2018 is made absolute.

It is made clear that the petitioners shall not directly or indirectly try to contact the complainant-prosecutrix, any of her family members or witnesses in this case. Any such infraction on the part of the petitioners may entail cancellation of their bail.

It is clarified that none of the observations made hereinabove shall

be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

March 08 , 2018.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No