

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

**CRM-M-44555-2017
Date of decision: 25.04.2018**

Ajay Mal

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Navjot Singh, Advocate,
for the petitioner.

Mrs. Anju Arora, Addl. Advocate General, Punjab.

Mr. Lalit Kumar, Advocate,
for respondent No.2.

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. 136 dated 03.08.2017 (Annexure P-1) under Section 376/354 IPC, registered at Police Station Sadar District Hoshiarpur.

Affidavit of Sukhvinder Singh DSP, Sub Division Hoshiarpur on behalf of the respondent-State in compliance with the order dated 09.01.2018 has been filed in Court, which is taken on the record.

Learned counsel for the petitioner contends that the aforesaid FIR registered at the behest of the prosecutrix is nothing but an abuse of the process of law. In fact, it is argued that it is a relationship that was consensual in nature while relying upon CCTV footage (Annexure P-4) to show that the complainant was stepping out of the hotel and thereafter she

got on the Acura of the petitioner without raising any hue and cry.

Notice has been issued in the instant case.

Learned counsel appearing on behalf of the respondent-State and the complainant both opposes the grant of anticipatory bail.

Learned counsel appearing on behalf of the respondent-State, on instructions from ASI Surinder Singh, submits that the matter has been investigated and statement of Aman Kumar s/o Sham Sunder, Manager of the Hotel, has been recorded under Section 161 Cr.P.C. in which it had been stated that the petitioner booked Room No. 303 in his name while informing that there were certain VIP persons who would be coming to the said room and also stated that they will try to sort out matrimonial differences of Sandeep Kaur, complainant. The complainant and the other persons went into the room together. Moreover, apart from the statement that has been recorded under Section 161 Cr.P.C. of the Hotel Manager, the Chemical Examiner report also come showing that spermatozoa on the exhibits.

I have heard learned counsel for the parties and have also the statements as recorded by the Investigating Officer.

In my opinion, reliance of one frame of CCTV footage showing the complainant present in the hotel is not enough to buttress the arguments raised that the complainant was consenting party. Specific allegations have been raised in the FIR that the petitioner herein had violated her without her consent. There is also a statement that has been recorded of the Hotel Manager, who is an independent party, that there was a noise and scuffle which ensued from the room booked by the petitioner herein, apart from this there is a Chemical Examiner's report showing the

spermatozoa on the exhibits. The Manager of the Hotel has corroborated the allegations as set out in the FIR.

This Court is also informed that the mobile phone belonging to the complainant was also recovered lying under the bed in room No. 303 at Ist Floor of the Hotel. The petitioner herein is a man of considerable influence and having abused his position of trust, has been accused of an offence which is heinous in nature. Therefore, without commenting on the merits of this case, this Court is not inclined to confirm the interim bail granted to him.

Dismissed.

25.04.2018

Satyawan

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes.
No.