

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

CRM-M-3220 of 2019.

Decided on:- February 15, 2019.

Jagtar Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Saurabh Arora, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, D.A.G., Punjab.

Mr. Pawan Kumar, Senior Advocate with
Mr. Hitesh Sammi, Advocate
for the complainant.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 438 Cr.PC is for grant of anticipatory bail to the petitioner in FIR No.263 dated 24.12.2018 under Sections 376 and 120-B read with Section 34 IPC registered at Police Station Canal Colony, Bathinda, District Bathinda.

Briefly stated, the victim-complainant, who belongs to the poor strata of society, was working as a housemaid in various houses along with her mother. She was working in the house of Simran Kumar wife of James. On 15.07.2016, she received a phone call from mobile phone No.99140-73578 that they (accused persons) will fetch more salary to the complainant

and would show a Kothi, where she may work. She believed it and had gone to see the Kothi. The petitioner stated that he had arranged a job for her and he called her at Bhagu Road, Bathinda at about 12.00 noon. The complainant went to meet him and she was made to sit in the vehicle of the petitioner from where he took her to a petrol pump, near flyover, where two more persons whom she did not know, were standing there. All of them sat in the vehicle. She was taken to a room constructed on the land of the petitioner, where livestock were tied. The petitioner remained seated in his vehicle and sent two unidentified persons in the room one by one. One person committed rape upon the complainant, whereas the petitioner and other person remained outside the room. She ran away being perplexed on the main road, where one person, who was passing, gave her lift on his motorcycle and after walking for some distance, she reached the house of Simran Kaur wife of James and disclosed the whole incident. Simran Kaur brought the complainant to the hospital.

Learned counsel for the petitioner has argued that the petitioner has falsely been implicated in the case. Earlier, the complainant made a complaint to the police, but no action was taken by the police authorities. The complainant filed an application under Section 156(3) Cr.P.C. and the matter was thoroughly investigated by the police and a report dated 02.08.2016 was submitted, which shows that the allegations levelled by the complainant are false. The petitioner has never met or seen the complainant. The FIR is politically motivated as the petitioner is serving as the Secretary of the Punjab Pradesh Congress Committee. The FIR was registered after 2½ years of the

alleged incident with much concoction and deliberation. The story created by the complainant is not probable. In the complaint, it has been alleged that it is on the asking of the petitioner, firstly, one person forcibly committed rape upon the complainant and during that time, the petitioner and other person remained standing outside the room. After that, the other person tried to commit rape on which she raised hue and cry and came on the main road from where she came to the house of Simran Kaur after taking lift from one motorcycle rider. Whereas in the FIR, it has been alleged that the petitioner remained outside in his vehicle and he sent two unidentified persons in room one by one where one person allegedly outraged her modesty and after fighting with the other person, she allegedly ran away on the main road. There is complete contradiction in the complaint.

On the other hand, learned senior counsel for the complainant has argued that the allegations against the petitioner are serious. The complainant has been victimised and no action had been taken against the accused. Since learned Magistrate, without recording reasons as to why the request of the complainant for registration of the FIR was declined, the complainant had approached this Court by way of *CRM-M-41647 of 2016* titled as ***Rekha Rani @ Rajni Rani Versus State of Punjab and others*** to get the FIR registered against the petitioner and other unidentified persons for the offence committed against her. In that petition, this Court vide order dated August 27, 2018 remanded the case back to the Judicial Magistrate 1st Class, Bathinda for taking a fresh decision in accordance with law.

Having heard learned counsel for the parties and perusing the contents of the FIR, this Court finds that the petitioner is the main person/accused through whom the other accused had committed rape upon the complainant. The other co-accused are not known to the complainant, rather, are known to the petitioner as they joined the petitioner in his vehicle. Thus, it is the petitioner, who had allegedly taken the complainant to the fields, where the other two accused had joined on the way. As per the allegations, one accused committed rape upon the complainant, whereas the other co-accused tried to commit rape, but the complainant raised hue and cry and managed to escape from the spot. The role of the petitioner is serious and crucial and, therefore, no ground is made out for grant of anticipatory bail to him.

Accordingly, the present petition, being devoid of any merit, is dismissed.

February 15, 2019

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No