

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-6839 of 2019

Date of Decision: 11.04.2019

Dinesh

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

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

Present:- Mr. Bijender Dhankhar, Advocate
for the petitioner.

Ms. Mahima Yashpal, AAG, Haryana.

Mr. Baljeet Beniwal, Advocate
for the complainant.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 438 of the Code of Criminal Procedure, 1973 is for grant of anticipatory bail to the petitioner in case FIR No.39 dated 24.01.2019 under Sections 342, 354-A, 451 and 506 IPC and Section 8 POCSO Act (added later on) registered at Police Station Hodal, District Palwal.

The aforesaid FIR was registered at the behest of complainant- Bharti son of Bhagwant, to the effect that his daughter, who is about 15 years of age and a student of 9th class, has been enticed away by the petitioner. As per the prosecution version, on 18.01.2019 at 10/10.30 P.M.,

the petitioner committed house trespass by entering into the house of the complainant with *mala fide* intention. When the complainant heard the cries and ran towards the room, in which the petitioner-accused had entered, he found that the petitioner, who was coming out of the room, fled away after scaling the wall. The complainant was told by his wife that the petitioner had switched off the bulb in the room and was hiding under the bed. However, with the help of match box, she recognized the petitioner and when she tried to catch hold of him, he pushed her and ran away. Later on, it was found that the daughter of the complainant was missing. At about 01.30 a.m., the complainant received a call from mobile No.9728111960 at his mobile No.8683092750 from the father of the petitioner, who admitted their fault and asked the complainant to take his daughter from his house. But the complainant did not visit the house of the petitioner due to fear of dogs. Next day, they brought their daughter back to home, who told him that the petitioner tried to rape her and when she refused, an injury was given on her head. She was offered milk and when she did not drink, she was forcibly made to drink, due to which, she became unconscious.

Learned counsel for the petitioner has argued that the petitioner is innocent and has falsely been implicated. There is delay in lodging of the FIR without there being any plausible explanation. The petitioner is in Indian Army. The petitioner and the prosecutrix were known to each other, being residents of same locality. Prosecutrix wanted to marry the petitioner but he was averse to marry her. The petitioner and his family members refused for the marriage. He has argued that since the

prosecutrix was about 15 years of age, the marriage could not be arranged. The petitioner has never enticed the girl forcibly.

On the other hand, learned State counsel, on instructions from SI Mohd. Idrish, has argued that the statement of the prosecutrix is sufficient to decline the prayer of the petitioner for grant of anticipatory bail. In her statement under Section 164 CrPC, she has stated that on 18.01.2019 at about 10/10-30 P.M., the petitioner, who resides at the back of their house, entered their house and hid himself under the bed of her grandmother and when her mother on hearing the noise lit a match box, the petitioner came outside and pushed her mother. He caught hold of the hand of the prosecutrix and took her outside. He also threatened that in case she does not accompany him, her both younger brothers would be killed. Thereafter, he forcibly tried to commit rape upon her. She was given injury when she refused to drink milk. The petitioner also has photographs of the prosecutrix in his phone.

I have heard learned counsel for the parties.

There are specific allegations against the petitioner. Considering the age of the prosecutrix and her statement dated 29.01.2019 recorded under Section 164 CrPC, wherein she has supported the prosecution version, this Court finds that no case for grant of anticipatory bail is made out.

Accordingly, the present petition is dismissed.

April 11, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?
Whether reportable?

Yes / No
Yes / No