

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-47662 of 2018

Date of Decision: January 23, 2019.

Happy Vij @ Karan Vij

.....Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Manish Verma, Advocate
for the petitioner.

Mr. Avtar Singh Sandhu, Addl. A.G., Punjab.

FATEH DEEP SINGH, J. (Oral)

This order shall dispose off anticipatory bail application under Section 438 Cr.P.C. moved in FIR No. 245 dated 28.06.2017 under Sections 376-D, 120-B, 427 and 506 IPC, Police Station Jodhewal, Police Commissionerate, District Ludhiana.

The brief allegations that have come about by the complainant are that the petitioner and the complainant entered into a wedlock on 19.11.2016 and, subsequently, on account of some matrimonial dispute, the wife has alleged that the accused/petitioner Happy Vij @ Karan Vij alongwith his brothers Manni Vij and Arun Vij often used to threaten her and in the night of 19/20.12.2016, the petitioner served her pegs of liquor and, thereafter, alongwith Arun Vij and Manni Vij raped her leading to the registration of the FIR.

It is worthwhile to mention here that as per the factual scenario even prior thereto regarding an incident that occurred on

17.02.2016 on the business premises of the petitioner, similar FIR was got lodged by the complainant against the petitioner and his brothers on similar allegations.

Mr. Manish Verma, learned counsel for the petitioner *interalia* contends that even in an earlier similar incident regarding which FIR got registered by the present complainant, the parties have effected a compromise and, subsequently, on account of matrimonial dispute on similar lines with bit variations, the present case has come about and that nothing is to be recovered from the petitioner and sought to argue over the very credibility of the prosecution version and truthfulness of the complainant serving liquor by submitting that it is during the course of investigation truth will prevail.

Mr. Avtar Singh Sandhu, learned Additional Advocate General Punjab on instructions of ASI Salinder Pal Singh, Police Station Jodhewal though does not dispute the facts brought to the notice of this Court but has sought to oppose the grant of bail on the grounds of heinousness of offence and seriousness of allegations.

Appreciating the submissions of the two sides, it is own stand of the complainant that there is a matrimonial dispute between the two sides. To the specific query of the Court, Mr. Sandhu does not substantiate the version of the prosecution as to any medical evidence or the allegations of rape to corroborate the same. Thus, a debatable issue arises over the very applicability of offence under Section 376-D IPC.

In the light of what has been detailed and discussed above, together with the fact that culpability, if any, of the petitioner shall be determined at the trial which is not likely to be concluded in the near future and it would be travesty of justice if the petitioner is sent behind the bars. Therefore, in the event of arrest, the petitioner be released on *interim* bail to the satisfaction of Arresting/Investigating Officer. The petitioner shall, however, join the investigation as and when called for to do so and he shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Disposed off.

January 23, 2019
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No