

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

CRM-M-24253 of 2019.

Decided on:- July 04, 2019.

Sandeep.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

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Present:- Mr. Amardeep Singh Sheoran, Advocate  
for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

**HARI PAL VERMA, J.**

Prayer in this petition filed under Section 438 Cr.PC is for grant of anticipatory bail to the petitioner in FIR No.142 dated 30.04.2019 under Sections 354-A, 354-D, 376, 511 and 506 read with Section 34 of the Indian Penal Code registered at Women Police Station, Rohtak.

The aforesaid FIR was registered at the behest of complainant/prosecutrix, daughter of Sudarshan Sharma. As per the FIR, her mother has taken divorce from her father Sudarshan Sharma and has solemnised marriage with the petitioner. Thus, the petitioner is step-father of the complainant, but he has an evil eye upon her. Whenever he used to come at home, he used to stare at the complainant with bad intention. On the intervening night of 16/17.04.2019 when the complainant suddenly woke up, she found that the petitioner was staring at her with bad intention. When she had gone to the washroom, the petitioner came from behind and manhandled

her with bad intention. However, the complainant rescued herself, went to the room and slept with her mother. In the morning, the petitioner threatened the complainant that if she will disclose the incident to anyone, she will have to face dire consequences. He uploaded the photo of complainant on his *WhatsApp*. Then the complainant disclosed everything to her mother. When mother of the complainant had discussed this issue with the petitioner, he threatened her mother also that if any complaint is made, he will leave her and will upload her photographs on *facebook* by making it nude and will make her a prostitute.

Learned counsel for the petitioner has argued that the petitioner has not committed any offence as alleged in the FIR. In fact, the prosecutrix with an ulterior motive has got the present FIR registered against the petitioner. Since the month of June, 2016, the petitioner and mother of the complainant are not in relationship. The petitioner has never visited the house of the mother of prosecutrix what to talk of sleeping in her house after June, 2016.

Learned counsel for the petitioner has referred to an affidavit dated 17.06.2016, wherein mother of the prosecutrix had deposed that she will not keep any relation with the petitioner in future and wanted to live separately from her with her children. He has relied upon ***Bhadresh Bipinbhai Sheth Versus State of Gujarat and another 2015(4) RCR (Criminal) 199*** to contend that while considering the anticipatory bail, certain factors are required to be taken into consideration. There is no requirement that the accused must take out a special case for the exercise of the power to

grant anticipatory bail and the person seeking anticipatory bail is still a free man entitled to the presumption of innocence. The FIR has been registered after a delay of 13 days. Neither any interrogation is required to be conducted from the petitioner nor any recovery is to be effected from him.

On the other hand, learned State counsel has argued that the petitioner being a step-father has committed heinous crime. He was keeping an evil eye upon the prosecutrix for the last 4-5 years and during the intervening night of 16/17.04.2019, when the prosecutrix got up, she found that the petitioner was staring at her with bad intention and when she had gone to washroom, the petitioner came from behind and manhandled her with bad intention.

I have heard learned counsel for the parties.

The allegation against the petitioner is to outrage the modesty of his own step-daughter and on the fateful night, when the prosecutrix suddenly woke up, the petitioner came from behind and manhandled her with bad intention. The judgment of Hon'ble Supreme Court in ***Bhadresh Bipinbhai Sheth's case (supra)*** referred by learned counsel for the petitioner is not in dispute, but the same has no relevance in the facts and circumstances of the present case. In the aforesaid judgment, the Apex Court has made observations about the factors that may be taken into consideration at the time of grant of anticipatory bail, which are as under:

*“(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*

- (ii) *The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on the conviction by a court in respect of any cognizable offence;*
- (iii) *The possibility of the applicant to flee from justice;*
- (iv) *The possibility of the accused's likelihood to repeat similar or other offences;*
- (v) *Where the accusations have been made only with the object to injuring or humiliating the applicant by arresting him or her;*
- (vi) *Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;*
- (vii) *The courts must evaluate the entire available material against the accused very carefully – The Court must also clearly comprehend the exact role of the accused in the case – the cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution, because over implication in the cases is a matter of common knowledge and concern;*
- (viii) *While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused;*

- (ix) *The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*
- (x) *Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”*

However, the case of the petitioner does not fall within the aforesaid parameters laid down by Hon’ble Supreme Court. The petitioner is step-father of the complainant and generally, no girl would make such allegation against her step-father. The relief of grant of anticipatory bail is discretionary relief. The allegations levelled against the petitioner are serious. Therefore, no ground is made out for grant of anticipatory bail to him.

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

**July 04, 2019**  
Yag Dutt

**(HARI PAL VERMA)**  
**JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No