

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

CRM-M-30883 of 2019.

Decided on:- July 22, 2019.

Kiran.

.....Petitioner.

Versus

State of Haryana and another

.....Respondents.

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

Present:- Mr. Manoj Kaushik, Advocate
for the petitioner.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 439(2) Cr.PC is for cancellation of anticipatory bail granted to respondent No.2 vide order dated 03.04.2019 (Annexure P-2) passed by learned Additional Sessions Judge, Faridabad in FIR No.57 dated 15.02.2019 under Sections 498-A, 406, 377 and 506 read with Section 34 IPC (Sections 376/511 IPC added later on) registered at Police Station NIT, Faridabad.

Learned counsel for the petitioner has argued that while granting anticipatory bail to respondent No.2, the Additional Sessions Judge, Faridabad has not appreciated the statement of the petitioner made under Section 164 Cr.P.C. The petitioner is sister-in-law (Bhabhi) of respondent No.2 and the conduct of respondent No.2 is inhuman and is in no manner spare-able because it is a glaring example of utmost heinousness and immoral act committed upon a newly-wedded sister-in-law (petitioner) by her own

brother-in-law. Therefore, the anticipatory bail granted to respondent No.2 is liable to be cancelled.

Having heard learned counsel for the petitioner and perusing the paper book, this Court finds that while granting interim bail to respondent No.2 vide order dated 25.03.2019, learned Additional Sessions Judge, Fast Track Court, Faridabad has observed that the accused (respondent No.2 herein) is B.Tech., whereas the prosecutrix (petitioner herein) is MDS and her husband is a doctor in Army. If there was an attempt to commit rape on 06.08.2017, then certainly the matter would have been reported to any authority, but it was reported to the police after 1½ years. If the prosecutrix had dare to mention regarding minor incident of misbehave of respondent No.2 in the petition under Section 9 of the Hindu Marriage Act, 1955 and the petition under the Protection of Women from Domestic Violence Act, 2005, then what was the hitch with her for not narrating the big incident i.e. attempt to commit rape in those petitions.

Learned Additional Sessions Judge has further observed that two different versions have come from the petitioner, which is not expected because the prosecutrix is a literate person. The relevant observations of learned Additional Sessions Judge made in paragraph No.9 of the order dated 25.03.2019 read as under:

“8. Even two different versions have come when the FIR was lodged. First version came with statement of prosecutrix which was recorded by police in the presence of legal aid counsel. The following is the relevant version:

“Accused entered in her room caught her, made attempt to commit rape forcibly. She raised bachao-bachao. Her mother in law came. She told to her husband, who stated that if she told this to anyone, then she would have to bear the consequences.”

Statement u/s.164 Cr.P.C. of prosecutrix was got recorded and following is the relevant version:

“Accused came in her room, touched her in an inappropriate manner, gagged her mouth and he got inserted his hand in her Kurta. She cried. Her mother in law came and she told the incident to her mother in law, who stated that it is a common task. She told this incident to her husband, who stated that what happened then, he is his brother.”

So, though the incident has been shown by the prosecutrix as committed by the applicant-accused regarding an attempt to commit rape, but in both statements, different versions have been narrated. The same is not expected because the prosecutrix is a literate person.”

Thereafter, when the respondent No.2 had joined the investigation, the interim order dated 25.03.2019 was made absolute vide impugned order dated 03.04.2019 passed by learned Additional Sessions Judge, Fast Track Court, Faridabad.

Therefore, this Court finds that no ground is made out to cancel the anticipatory bail granted to respondent No.2 vide order dated 03.04.2019 (Annexure P-2) passed by learned Additional Sessions Judge, Fast Track Court, Faridabad.

The present petition is, accordingly, dismissed.

It is made clear that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial

Court shall decide the same without being influenced with these observations in any manner.

July 22, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No