

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

CRM-M-33221-2019 (O&M)
Date of Decision:-26.8.2019

Kuljinder Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Navjot Singh, Advocate for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Mr. Lakhwinder S.Sidhu, Advocate for the complainant.

GURVINDER SINGH GILL, J.

1. The petitioner Kuljinder Singh has approached this Court seeking grant of anticipatory bail in a case registered against him vide FIR No.115 dated 11.7.2019 under Section 376 IPC at Police Station Sadar Sangrur, District Sangrur.
2. The FIR was registered at the instance of Jaspreet Kaur wherein she alleged that she is aged 22 years and that when she was in school, Kuljinder Singh (accused) used to follow her and pass filthy comments. It is alleged that Kuljinder Singh's aunt used to reside in village Nagra and Kuljinder Singh also started residing with his aunt and started roaming around complainant's house. It is alleged that Kuljinder Singh's aunt called the complainant to her house and handed her over to Kuljinder Singh where she was raped for the first time. It is alleged that Kuljinder Singh's aunt held out a representation

that she would get her married to Kuljinder Singh as Kuljinder Singh is having a big share in property. The complainant, being taken in by the said representation, continued meeting Kuljinder Singh. However, complainant's marriage was fixed with one Sukhjit Ram of Patiala and upon which Kuljinder Singh started giving threats of interrupting the marriage. The complainant was married to Sukhjit Ram but later she left her matrimonial home and came back to her parental home as divorce proceedings were also initiated. It is alleged that Kuljinder Singh alongwith 1-2 other persons used to take her to his house where his brother Lakhwinder Singh also committed obscene acts with her but she kept mum due to fear. It is alleged that in the year 2015, she gave an amount of ₹ 80,000/- to Kuljinder Singh on his demand to purchase a motorcycle. It is further stated therein that the complainant used to go to the house of Kuljinder Singh with the permission of his mother namely Paramjit Kaur who assured her that she would solemnize her marriage with Kuljinder Singh and consequently Kuljinder Singh kept on establishing physical relations with her with her consent. It is alleged that later Kuljinder Singh, his friends Harpreet Singh Happy, Jarnail Singh, Yadwinder Singh, Barinder Singh and others started issuing threats to kill her brother and she was also threatened to establish physical relations with Kuljinder Singh and his friends. It is alleged that the accused threatened to upload her naked photographs on internet. It is alleged that on one day, she was beaten up and was gang raped and accused also clicked her naked photographs.

3. The learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that even as per the FIR, it is apparent that

the complainant was having physical relations with the petitioner out of her own free will and consent before marriage and even after her marriage to Sukhjot Ram when she left her matrimonial home. It has been submitted that the present FIR has been lodged in order to pressurize the petitioner to marry her as the complainant has been thrown out of her matrimonial home also. The learned counsel has further submitted that the complainant is in the habit of levelling false allegations and infact in the complaint filed by her against her husband Sukhjot Ram and others under Section 365, 323 and 506 IPC (Annexure P-6), she went to the extent of levelling allegations against her father-in-law Puran Ram to the effect that he compelled her to develop illicit relations with him and one day made an attempt to commit rape and held her in his arms but she managed to save herself.

4. The learned counsel for the petitioner has further referred to the print out of the *WhatsApp* conversation between the petitioner and the complainant annexed with the petition as Annexure P-7 which shows that the complainant has been regularly in touch with the petitioner not only before her marriage to Sukhjot Ram but even after the marriage.
5. Opposing the petition, the learned State Counsel has submitted that since specific and categoric allegations are levelled against the petitioner, no case for grant of anticipatory bail is made out.
6. I have considered rival submissions addressed before this Court. Apparently, it is a case where the petitioner established physical relations with the complainant with her consent several years before her marriage to Sukhjot Ram. It is, however, borne out that the marriage of the complainant did not work and she left her matrimonial home and came back to her

parental village and again resumed physical relations with the petitioner. The *WhatsApp* conversation shows that the complainant was regularly in touch with the petitioner even after her marriage and after having left her matrimonial home. In these circumstances, it will certainly be debatable as to whether the petitioner had kept the complainant under any kind of fear or threat so as to establish physical relations and has forced her to develop physical relations with somebody else.

7. Since the petitioner is already stated to have joined investigation and the facts of the case do not warrant any custodial interrogation, the petition, as such, is accepted and the petitioner in the event of arrest be released on bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C. It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.
8. The petition stands accepted accordingly.

26.8.2019

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No