

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-45189 of 2019

Date of Decision: 07.11.2019

Ranjan Kaushik @ Prince

...Petitioner (s)

Versus

UT Chandigarh

...Respondent(s)

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

Present:- Dr. Anmol Rattan Sidhu, Sr. Advocate with
Ms. Divya Kathuria, Advocate
for the petitioner.

Mr. Rajiv Vij, APP, UT, Chandigarh.

Mr. Amandeep Vashisth, Advocate
for the complainant.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 438 CrPC is for grant of anticipatory bail to the petitioner in FIR No.274 dated 05.09.2019 under Section 376 IPC registered at Police Station Central Sector 17, Chandigarh.

The aforesaid FIR was registered at the behest of the prosecutrix against the petitioner. As per the FIR, the prosecutrix is pursuing B.Sc. Home Science from Government Home Science College, Sector 10-D, Chandigarh. After her summer vacations, the parents of the

prosecutrix dropped her at PG and went back to Delhi. The prosecutrix found that her parents had left the charger of their mobile phone with her, to which, her parents asked her to send the charger through some one. On 02.08.2019, the petitioner, who was known to the prosecutrix, had come to Chandigarh. The prosecutrix called him and asked to take the charger from her so as to give it to her father. The petitioner informed her that he is busy in some meeting and the moment he will be free, he will make her a phone call. At about 6-00 P.M., he called the prosecutrix and told her that he will be free by 7-00 P.M. and let she should come to the hotel, where they will have dinner. When the prosecutrix asked him to pick her, the petitioner told her that he has no vehicle and she should come of her own. She reached there by hiring a cab at about 07.30 P.M. Thereafter, they went to a room on third floor of the hotel. The petitioner was busy with his phone till 9-00 P.M. The prosecutrix asked the petitioner in between to order for the dinner and accordingly, food was ordered. However, the order of meal was for prosecutrix only and not for the petitioner himself, as he told her that he was in the meeting, he would not like to have dinner. She went to washroom to wash her hands and came back to have dinner. After completing her dinner, the prosecutrix asked him that she would like to go back to her PG, but the petitioner insisted her to stay there and he would talk to her PG warden that she is with him. After few minutes, her head started aching and she became unconscious. When she woke up, she found herself without clothes and her body was aching/paining. She ran towards the washroom with her clothes while crying. After wearing her clothes, she came out and asked the petitioner as to what had happened to her, to which,

he replied that everything will be normal and will fade with time. He threatened her that no one will believe her and nobody will marry her. In the morning, she left the charger and ran away to her PG. Then, the petitioner sent a message to her and asked her to take unwanted pregnancy pills, to which, the prosecutrix said OK. In this manner, the petitioner had called her fraudulently and committed rape upon her when she was unconscious.

Learned Senior Counsel appearing for the petitioner has argued that the alleged incident has occurred on 02.08.2019 whereas the FIR was registered on 05.09.2019. He referred to Whatsapp chat between the petitioner and the prosecutrix to contend that if anything has happened, the same was with the consent of the prosecutrix, a major girl. Rather, the prosecutrix was possessive about the petitioner and wanted to marry him, but the petitioner was withdrawing from her. He has further argued that after the alleged incident, the complainant has never complained either to any employee of the hotel or to her parents. There is no medical to support the case of the prosecution. The complainant is still in contact with the petitioner continuously and is sending Whatsapp messages, asking him to come to Chandigarh. The messages exchanged between them are sufficient enough to establish that both of them were in relationship with each other since long. The petitioner is uncle of the prosecutrix in relation and the allegations so levelled by the prosecutrix are unbelievable. He has not committed any offence, as alleged in the FIR and is ready and willing to join investigation.

On the other hand, counsel for the complainant has argued that in fact, the petitioner has betrayed the very faith of the prosecutrix, who was otherwise known to her family. He was being treated as uncle (*Mamu*) and instead of admitting his guilt, he is accusing the prosecutrix.

I have heard learned counsel for the parties.

The petitioner has filed this petition for grant of anticipatory bail and at this stage, the allegations of the prosecution are of relevant consideration, so as to decide this application. The prosecutrix was known to the petitioner. She has levelled specific allegations of commission of offence of rape against her wishes. The prosecutrix in order to hand over the charger left by her parents had called the petitioner to the hotel where he was staying. He ordered dinner for her in his room, which he himself did not eat. However, after taking the dinner, the prosecutrix became unconscious and when she woke up, she found herself in nude condition and her body was aching/paining. She has alleged that the petitioner has committed rape upon her against her consent.

Considering the fact that the allegations levelled against the petitioner, who is none else but uncle (*Mamu*) in relation of the prosecutrix, are serious in nature, the prayer for anticipatory bail is hereby declined.

Accordingly, the present petition is dismissed.

November 07, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No