

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

**CRM-M-13116-2020 (O&M)
Date of Decision: 05.06.2020.**

GopalPetitioner.
Versus
State of HaryanaRespondent.

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Argued by: Mr. Jai Bhagwan Sharma, Advocate for the petitioner.

Mr. Sukhdeep Parmar, Deputy Advocate General, Haryana.

Mr. Abhilaksh Grover, Advocate for the complainant.

Suvir Sehgal, J.

The court has been convened through video conferencing due to Covid-19 pandemic.

CRM-12080-2020

Prayer made in the application is for placing on record copy of MLR dated 15.02.2020 (Annexure P4), in respect of the injuries received by the petitioner.

Counsel for the petitioner submits that the MLR is sought to be placed on record in compliance of order dated 28.05.2020 passed by this Court.

Notice of the application.

Mr. Sukhdeep Parmar, DAG, Haryana assisted by Mr. Abhilaksh Grover, Advocate for the complainant, who are available on the conference call accept notice. They have no objection in case the application

is allowed and MLR is taken on record.

Application is allowed. Copy of MLR dated 15.02.2020(Annexure P4) is ordered to be taken on record.

CRM-M-13116-2020

On 28.05.2020, after hearing the parties this Court passed the following order :-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

By this petition, the petitioner seeks the concession of 'pre-arrest bail', upon FIR No. 14 having been registered against him at Police Station Palwal, on 15.02.2020, alleging therein the commission of offences punishable under Sections 354-A and 452 of the IPC, with the allegation that an offence punishable under Section 376 of the IPC was also committed, having been made subsequently by the complainant, upon a statement recorded before the JMIC, Palwal, on 15.02.2020 itself.

In the FIR, it has been stated that the complainants' husband lives in Saudi Arabia and that the petitioner came to her room by jumping the wall of the house, 'slapped' her on her chest and when she woke up, he shut her mouth but her family member had reached there upon hearing a noise. The petitioner thereafter, is alleged to have run away.

On the other hand, in the statement before the Magistrate (as read out by learned State counsel upon query by this court), she stated that after the petitioner came to her room, he shut her mouth and threatened that he would harm her children if she did not co-operate with him, after which he committed rape upon her and then, upon her raising a hue and cry, her family members came to the room.

Learned counsel for the petitioner submits that as a matter of fact the FIR against the petitioner is a counter-blast to the fact that the petitioner was beaten up by a family

member of the complainant in the present FIR, and the petitioners' actually registered a complaint, after which the complaint against the petitioner (as has been described hereinabove) was registered.

Learned State counsel on the other hand submits that the FIR registered at the instance of the complainant in the present case is on 15.02.2020, whereas the FIR registered at the instance of the brother of the petitioner, was so registered only on 16.02.2020, which means it was that FIR, which was a counter-blast to the FIR registered against the petitioner.

Learned counsel for the petitioner however submits that the petitioner was in fact injured on the 14.02.2020, he having received 08 injuries even as per the Medico Legal Report, a copy of which he however has not been able to produce.

It is seen that the FIR at the instance of the petitioners' brother is registered immediately after mid-night on 16.02.2020, the complaint itself having been made by the petitioner (as per record along with this petition), on 15.02.2020 (at 11:30 p.m. as per learned State counsel).

Adjourned to 05.06.2020, with learned counsel for the petitioner to place on record the MLR in respect of the injuries received by the petitioner, showing therein the time that such injuries were reported to the hospital/health centre.

Learned State counsel would also take proper instructions with regard to the time of occurrence in the FIR against the petitioner, as per the complainant.

Notice of course would be deemed to have been issued, with learned State counsel already having such notice in advance.”

MLR (Annexure P4) shows that the petitioner was admitted in Civil Hospital, Palwal on 15.02.2020 at 00.08 hours. He was medically examined at 00.13 hours. In the column gist of incident, in the MLR it has been mentioned that the alleged assault had taken place one hour back in

village Pingor on 14.02.2020. Still further under the tabulated table listing the injuries received by the petitioner, the doctor had mentioned that the probable duration of the injuries was “within six hours”. From the above it is apparent that the injuries had been suffered by the petitioner late hours on 14.02.2020.

A perusal of the FIR Annexure P2 registered against the petitioner shows that complaint by the prosecutrix was given at the police station, Palwal on 14.02.2020 at 11.00 P.M. and FIR No.14 dated 15.02.2020 (Annexure P2) was registered. On the other hand, the complaint by the brother of the petitioner had been given at Police Station Sadar, Palwal on 14.02.2020 at 11.30 P.M. and FIR No.41 dated 15.02.2020 (Annexure P3) was registered. It is, therefore clear that the complaint on the basis of which the FIR Annexure P3 was registered, was subsequent in point of time.

The allegations levelled in the FIR Annexure P2 are serious in nature. The prosecutrix has named the petitioner in the FIR. In her statement before the Magistrate, she has not only named the petitioner but even given details of the incident. Custodial interrogation of the petitioner is, therefore, necessary to determine his role in the unsavory incident.

Accordingly, concession of anticipatory bail cannot be given to the petitioner and the petition is dismissed.

It is clarified that the observations made hereinabove shall not be construed to be an expression on the merits of the case.

(SUVIR SEHGAL)
JUDGE

05.06.2020
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