

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Miscellaneous No.M-21571 of 2020

Date of Decision: *October 01, 2020*

Roshan Lal @ Roshan Ali

..... PETITIONER(S)

VERSUS

State of Haryana

..... RESPONDENT(S)

...

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

...

PRESENT: - Mr. Rajiv Kumar Saini, Advocate, for the petitioner.

Mr. Parveen Kumar Aggarwal, Deputy Advocate General, Haryana, assisted by Mr. Arvinder Arora, Advocate, for the complainant.

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Sant Parkash, J

The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.

This petition has been filed by the petitioner under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.29 dated 01.07.2020, under Sections 376, 506, 34 IPC, registered at Police Station Women, Naraingrah, District Ambala.

The instant FIR has been registered on the basis of statement of complainant – Komal, to the effect that on 29.06.2020, petitioner – Roshan Ali committed rape upon her while petitioner's wife - Chandni

pressed her mouth. Thereafter, both threatened her to kill if she told anyone about their act.

Learned counsel for the petitioner has contended that the petitioner has been falsely implicated. Complainant solemnized marriage with Dimple Saini after running away from her house. Parents of Dimple Saini refused to accept their marriage. In view of aforesaid facts and on request of Dimple Saini, petitioner allowed them to reside in his house in a separate room. Learned counsel further submits that with the intervention of respectables of the village and Gram Panchayat, a compromise (Annexure P-1) has been arrived at between the parties and an amount of ₹ 80,000 in cash and a cheque of ₹ 20,000/- have been given to complainant. Despite compromise, complainant gave a statement to the Police, on the basis of which the instant FIR has been registered against the petitioner and his wife. The instant FIR is the outcome of blackmail and greediness of the complainant and her husband. Wife of the petitioner has been allowed the concession of anticipatory bail by the Court of Additional Sessions Judge, Ambala and petitioner also deserves the same relief.

Learned counsel for the State, assisted by counsel for the complainant, has submitted that complainant has been raped by the petitioner with the help of his wife in their house. Allegations against the petitioner are serious.

I have heard counsel for the parties and perused the record.

Admittedly, complainant and her husband Dimple Saini solemnized marriage by running from their houses. The marriage was objected to by their parents and acceding to the request of husband of the complainant, present petitioner gave them shelter. There is no denial of the

fact that petitioner had kept Komal and her husband in his home but allegedly committed rape upon the complainant and outraged her modesty.

The concession of anticipatory bail is totally discretionary and it is a settled proposition of law that this discretion has to be exercised very sparingly and in exceptional cases. If the entire set of allegations of the prosecution is taken to be true, no case for exercising extra-ordinary jurisdiction is made out. The present petitioner, in the name of giving shelter, committed rape upon the complainant and betrayed her faith which she and her husband reposed in him. The petitioner also cannot seek parity with the case of his wife as only allegation against his wife was that she pressed the mouth of the complainant.

Taking into consideration the seriousness of the crime, this Court is not inclined to extend the benefit of anticipatory bail to the petitioner. As such, the petition is dismissed.

**(Sant Parkash)
Judge**

October 01, 2020

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Whether Speaking/ Reasoned:

Yes/ No

Whether Reportable:

Yes/ No