

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

103

CRM-M-29184-2020
Date of decision: 24.09.2020

Rakesh Masih @ Sonu

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vijay Lath, Advocate
for the petitioner.

Mr. H.S.Multani, AAG, Punjab
for the respondent-State.

SUVIR SEHGAL J. (ORAL)

The hearing of this petition has been taken up through video conferencing on account of outbreak of Covid-19 Pandemic.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in a case registered vide FIR No.146 dated 29.08.2020, Annexure P-1, under Sections 354, 323, 506, 34 of Indian Penal Code, 1860, at Police Station Dera Baba Nanak, Police District Batala, Punjab.

As per the version of the prosecution, FIR was registered on the complaint of Amarjit Kaur to the effect that on 07.05.2020, when she

had gone to throw some trash on village land, the petitioner along with co-accused, Kuldeep Masih @ Bagga, Major Masih, Bir Masih and Tarsem Masih attacked her from behind, tore her clothes and exposed her. They started beating her with sticks and intentionally called her by her caste as they knew that she belongs to the Mazbi Sikh community. One of the accused, Kuldeep Masih @ Bagga dragged her from her hair and used abusive language. The incident took place in the presence of Panchayat and other village folk. The petitioner was alone, as her husband works in dana mandi and was not there. She made a complaint in Police Chowki Dharamkot Randhawa of Police Station Dera Baba Nanak with a copy of the medico-legal report. After inquiry the Chowki In-charge found her version to be correct and recommended registration of FIR. But the SHO who was allegedly under the influence of the accused, tore the report and wrote a compromise in his own hand and forced the petitioner to sign the same. The complainant has asked for the forensic examination of the compromise. She stated that the SHO threatened to throw her in the lock up, in case, she refuses to sign the compromise.

Counsel for the petitioner has argued that the FIR in question was registered after a delay of 86 days and that also after the matter had been compromised between the parties. He argues that from a perusal of the FIR, it is apparent that the provisions of Section 354 IPC are not made out. Lastly, he submits that the photograph, Annexure P-3, which was taken at the time of the alleged occurrence was clicked by the petitioner and the complainant is fully clothed. According to the counsel,

the petitioner was not involved in the alleged occurrence.

State counsel, upon instructions from ASI Guriqbal Singh, has opposed the petition and submitted that serious allegations have been levelled against the petitioner and his custodial interrogation is required to recover the weapon of offence as well as to record his statement. He further submits that the petition for anticipatory bail by a co-accused, bearing CRM-M-28308-2020 titled ***Bira Masih @ Bir Masih Vs. State of Punjab***, was dismissed by this Court vide order dated 17.09.2020.

I have considered the rival submissions of the parties.

The alleged delay in the lodging of the FIR stands explained in the complaint submitted by Amarjit Kaur. The complainant was forced to enter into a compromise by the concerned SHO. He coerced the petitioner into signing the compromise, Annexure P-2, on the threat of throwing her behind bars. The complainant has specifically requested that the alleged compromise be sent to the forensic lab for analysis to verify her complaint in this regard.

A perusal of the FIR shows that the petitioner has been named and there are specific allegations against him. He tore the clothes of the complainant and outraged her modesty. The provisions of Section 354 IPC are clearly attracted. The petitioner and other co-accused allegedly abused her and physically assaulted her. The alleged photograph, Annexure P-3, on which reliance has been placed by the petitioner, is of no help to him as it is debatable as to when and who clicked the same. Petition for anticipatory bail by a co-accused has already been dismissed by a co-ordinate bench of this Court, wherein same submissions raised by

the petitioner as in the present petition, have been dealt with.

Considering the nature of the allegations and the gravity of the offence alleged to have been committed by the petitioner, no ground is made out for grant of anticipatory bail to the petitioner.

Petition is, accordingly, dismissed.

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

24.09.2020

pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No