

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

CRM-M-29430-2020

Date of decision:05.11.2020

Manoj Kumar alias Kaptan

...Petitioner

Versus

State of Haryana and another

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Pawan Kumar Hooda, Advocate for the petitioner.
Mr. Ramesh Kumar Ambavta, AAG, Haryana
Ms. Jasneet Mehra, Advocate for
Mr. L.M. Gulati, Advocate for the complainant.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.291 dated 08.07.2020 registered under Sections 323, 376,377,406,498-A,506,34 IPC at Police Station Ganaur, District Sonapat.

On 24.09.2020, a Coordinate Bench of this Court passed the following order:-

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

Counsel for the petitioner submits that the petitioner is the elder brother of the husband of the complainant-respondent No.2. According to the counsel, the marriage between the complainant-respondent No.2 and Vikas, his brother, took place on 07.05.2019. However, right from the beginning, there was a discord between the two and the Panchayat was convened on 09.08.2019 to settle the dispute. The argument of the counsel is that the allegations in the FIR pertaining to the beatings and demand of dowry are all general in nature and the petitioner along with all other family members have been deliberately roped in. Insofar as the allegation pertaining to Section 376 of IPC is concerned, his submission is that on 04.12.2019, no such incident had occurred. He has made a

specific reference to the CCTV footage, the transcript of which, has been attached as Annexure P-2, giving the minute to minute details of the movements in the bedroom of respondent No.2, where the incident of rape is alleged to have taken place. Counsel submits that Vikas surrendered before the police and has been granted regular bail by the learned Sessions Court vide order dated 02.09.2020, Annexure P-5.

Notice of motion.

On the asking of the Court, Mr.Rajiv Sidhu, DAG, Haryana, assisted by Mr. L.M.Gulati, Advocate for the complainant, who are present through video conferencing, accept notice. State counsel, upon instructions from SI Vijay Pal, submits that complainant in her statement under Section 164 of Code of Criminal Procedure has supported the allegations in the FIR. He has instructions to state that the CCTV footage has been sent to the forensic lab and the report is awaited.

Mr. Gulati, appearing for the complainant has contended that not only complainant was harassed for bringing less dowry but even the CCTV footage, on which reliance has been placed has been manipulated. He contends that even if the CCTV was installed in the bed room of the complainant, it was without her consent.

Adjourned to 05.11.2020.

Meanwhile, the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer, till the next date of hearing. The petitioner shall also abide by the conditions as specified under Section 438 (2) Cr.P.C.

Let status report be filed by the State particularly with regard to the CCTV footage on which reliance has been placed by counsel for the petitioner.”

Learned counsel for the petitioner submits that pursuant to the order dated 24.09.2020 passed by a Coordinate Bench of this Court, the petitioner has joined the investigation.

Status report by way of affidavit of Deputy Superintendent of Police, Ganaur, District Sonapat, filed in the Registry on behalf of respondent/State, is taken on record.

At the outset, learned State counsel submits that though the petitioner has joined the investigation yet he is not cooperating with the

Investigating Agency and not providing the DVR of the CCTV footage.

At this stage, learned counsel for the petitioner makes a reference to the order dated 24.09.2020 passed by a Coordinate Bench of this Court, wherein the contention of the learned State counsel that the CCTV footage had been sent to the Forensic Laboratory and the report was awaited, stands recorded.

Learned counsel appearing for the complainant points out that liberty may be granted to the complainant to move for cancellation of the bail granted to the petitioner in case, he indulges himself into issuing threats to the complainant and/or misuses the concession granted.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the order dated 24.09.2020 passed by a Coordinate Bench of this Court granting interim bail to the petitioner, is made absolute, subject to the conditions laid down in Section 438 (2) of the Code of Criminal Procedure.

Needless to say, in case, the petitioner misuses the concession granted or issues threats to the complainant, it will be open to the complainant to move for cancellation of the bail granted to the petitioner.

05.11.2020

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(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No