

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

**CRM-M-29700-2020
Date of decision: 25.09.2020**

Shehzad Ali

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Saqib Ali Khan, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail in FIR No. 32 dated 28.02.2020, registered under Section 376(2)(n) IPC at Police Station Amargarh, Amargarh, District Sangrur.

Learned counsel for the petitioner submits that as per the allegations in the FIR, registered at the instance of complainant (name withheld), it is stated that she is working as a social worker and was married ten years ago and was residing with her brother. She was also working as a marriage counselor and the petitioner had a dispute with his wife. The petitioner contacted the complainant for counseling. During this period, the complainant used to talk with petitioner on phone and about five months ago, the petitioner came to her house and stated that he wants to marry her and on that pretext, he tried to commit rape on her. Later on, the petitioner used to come to complainant's home and commit rape upon her without her consent.

Learned counsel for the petitioner submits that in fact the

petitioner was having love affair with the complainant/victim and prior to registration of the FIR, he had gone on tour with complainant/victim and her son to different places like Agra and some shrines at Haridwar and Delhi.

Learned counsel relies upon photographs of the petitioner with the victim, wherein they are seen in happy mood along with other family members.

Learned counsel has placed on record certain other photographs showing the intimate relationship between the petitioner and complainant/victim.

Learned counsel further submits that anticipatory bail application of the petitioner was pending before the Additional Sessions Judge on 18.05.2020, wherein the complainant appeared and made a statement that she has performed marriage with the petitioner and no offence of rape was committed by him and she has no objection in case his bail application is allowed, however, the Additional Sessions Judge dismissed the bail application only on the premise that by registering the FIR, the police machinery was set in motion and now by taking U-turn, the complainant wants that the petitioner be granted concession of anticipatory bail as they have performed marriage.

Learned State counsel has not disputed the factual position and submitted that petitioner was declared a proclaimed offender on 29.07.2020 after following the due procedure and prays for cost.

After hearing learned counsel for the parties, without commenting on the merits of the case, considering the fact that complainant and petitioner have performed marriage with each other and the complainant has made a statement before the Additional Sessions Judge that she has no

objection in case the petitioner is granted concession of anticipatory bail, no purpose would be served by sending the petitioner behind bars.

Accordingly, the present petition is allowed and the petitioner is granted concession of anticipatory bail, subject to the conditions envisaged under Section 438(2) Cr.P.C.

It will be open for the Investigating Officer to call upon the petitioner to join investigation, if required, by issuing a written notice in this regard.

However, this order will be subject to deposit of Rs. 25,000/- by the petitioner with the District Legal Services Authority, concerned within one month from today, on account of expenses incurred on publication etc.

25.09.2020

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No