

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

**CRM-M-29500 of 2020
Date of Decision:-24.09.2020**

Rohit Lagaah @ Makhan Ram

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Gautam Dutt, Advocate
for the petitioner.

Mr. Harsimar Singh Sitta, AAG, Punjab.

JASGURPREET SINGH PURI J.(Oral)

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.128 dated 28.7.2020, under Section 376 IPC, registered at Police Station Nurmahal, District Jalandhar.

Learned counsel for the petitioner has submitted that in the present case a false and frivolous FIR has been registered against the petitioner on the fake and wrong allegations by the complainant. He has further submitted that as per the allegations contained in the FIR, it has been stated by the complainant that the complainant, who is now 25 years of age and about 10 years ago, when the petitioner had gone to meet the

accused at an undisclosed place, he made her consume some juice for drinking and when she became unconscious, after that she does not know what he did to her. Further allegations which are contained in the FIR that petitioner refused to marry her and started refusing to meet her. Thereafter the petitioner started forcing her to marry him but she refused on which the petitioner started issuing threats of posting vulgar videos made by him on internet and thereafter also developed physical relations with her. Thereafter an allegation has been made in the FIR that about two months back the petitioner has got his engagement done at some other place and therefore would be committing fraud upon her. Learned counsel for the petitioner has submitted that firstly the allegations have been made with regard to an incident which occurred around 10 years ago, secondly, he has submitted that on the face of the allegations contained in the FIR, they are inherently inconsistent. He has further submitted that on the one hand she has stated that she wanted to marry and on the other hand she stated that she did not want to marry. Therefore, the FIR was lodged only to blackmail the petitioner. Learned counsel for the petitioner has pointed out to the representation which has been made by the entire gram panchayat of the village where he is residing vide Annexure P-3 to the SSP (Rural) Jalandhar vouchsafing the credibility of the petitioner and his family. He has submitted that the present FIR is nothing but an abuse of process of law and prayed for grant of anticipatory bail to the petitioner.

Notice of motion.

Mr. Harsimar Singh Sitta, AAG, Punjab accepts notice on behalf of State of Punjab and states that delay in reporting such incident is

of little consequence. He has further submitted on instructions that the custodial investigation of the petitioner is required in view of the said fact that the petitioner may be having some vulgar material with him and that he may not post the same on the social media or such like place.

At this stage, Mr. Pranav Handa, learned counsel has caused appearance on behalf of complainant. He has submitted that it is a case where rape was committed and the allegations in the FIR are directly against the petitioner. He has submitted that the petitioner had refused to marry her and destroyed the life of the complainant. The investigation of the petitioner with regard to the categoric allegations is definitely required as there is likelihood that he may abscond or use vulgar material against her.

I have heard learned counsel for the parties through video conferencing.

A perusal of the FIR would show that the complainant has made allegations against the petitioner that she, who is at present 25 years of age and about 10 years ago she had met petitioner at an undisclosed place where he had given some juice to the complainant and she became unconscious and wrongful act was done to her. Thereafter as per FIR, they developed physical relations. After that the complainant started asking the petitioner to marry her but he refused. Thereafter rather the petitioner started asking the complainant to marry but she refused. I have gone through the vernacular of the FIR and also the translated form of FIR. From the vernacular of the FIR when the complainant had stated that the petitioner started asking her and started compelling her to marry but she did not agree. One of the probable interpretation of this line which is contained

in the FIR may be that the petitioner asked the complainant to marry anybody else because the interpretation of that line may mean that she never made an offer to the petitioner. The contention raised by learned counsel for the petitioner that there are inconsistencies in the FIR would not help the petitioner because it is a settled law that FIR is not an encyclopedia of all the facts. The submissions made by learned counsel for the petitioner that there was delay in reporting the incident again would not carry any weight because in such like cases the delay aspect although is a relevant factor, but it has to be seen in the context of each and every case wherein such like allegations are made in an Indian society.

On the other hand, submissions have been made by learned State counsel that the custodial investigation of the petitioner is required, particularly in view of the fact that even as per the FIR, threats were made by the petitioner that he may expose the complainant by spreading vulgar material. If such kind of spreading of vulgar material is made on the internet or any other form then certainly it is an irreparable injury.

It is a settled law that a Court while considering the grant of anticipatory bail is to strike a balance between two things; firstly, the freedom of the accused and secondly, the seriousness of the allegations, the probability of tempering with the evidence or influencing the witnesses or absconding and also the probable consequences of not permitting the State to have custodial investigation. The facts and circumstances of each and every case is to be seen in this regard. In the present case, the allegations made by the complainant is with regard to the threats made to the petitioner that he will make vulgar stuff public is of high amplitude towards

seriousness. So far as the submissions made by learned counsel for the petitioner that the villagers have also apprised the SSP that the petitioner is innocent would not carry any kind of weight at this stage because the matter is still at investigation stage. It is the investigating agency who has to investigate the matter by considering all the relevant factors. This Court while considering the grant of anticipatory bail to the petitioner would not comment anything on the merits of the case but would only see as to whether at this stage benefit of anticipatory bail is to be granted to the petitioner or not.

In view of the discussions made above, this Court is of the view that this is not a fit case to grant anticipatory bail to the petitioner.

Consequently, the present petition is dismissed.

September 24, 2020
Vijay Asija

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No