

In virtual Court

CRM-M-34745-2020

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34745-2020 (O&M)

Date of decision: 30.10.2020

Rajwinder Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. J.K. Singla, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. K.S. Brar, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail in FIR No.103 dated 05.09.2020 under Sections 376, 506 IPC and Sections 25/27 of Arms Act, registered at Police Station Nandgarh, District Bathinda.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of victim 'M', her husband died one and half years ago and thereafter, she and her son started living with her sister, where she met petitioner Rajwinder Singh and he took her mobile number and started talking to her. Thereafter, they started relationship like husband-wife and the petitioner ensured that he will perform marriage with her after taking divorce from his wife. On 24.08.2020, the petitioner called her on the pretext of

performing Court marriage, but took her to the fields and committed rape on her.

Learned counsel for the petitioner further submits that in the statement under Section 164 Cr.P.C., the victim has stated that she came in contact with the petitioner and remained in contact for 11 months. Thereafter, on 24.08.2020, the petitioner committed rape on her, though she was protesting that she will have physical relation with him only when he will perform marriage with her. It is further submitted that it is case of consensual sex and it is own case of the prosecutrix that she developed husband-wife relationship with the petitioner.

Learned counsel for the petitioner has referred to a compromise as well as an affidavit dated 17.10.2020, allegedly signed by the victim, however, during the course of arguments, he submitted that he does not want to rely upon this document, as learned State counsel and learned counsel for the complainant have denied the same. It is further submitted that the petitioner and the victim maintained relationship for about 11 months and consensual relationship between the parties ended after 11 months, as per own case of the prosecutrix, therefore, there was no occasion that on 24.08.2020, the petitioner called her to perform marriage and committed rape.

Learned State counsel has submitted that the prosecutrix has reiterated the version given in the FIR in her statement recorded under Section 164 Cr.P.C. It is further submitted that the prosecutrix has taken a categorical stand that she maintained relationship with the petitioner for about 11 months and thereafter, she was not in contact with him and when she was called on the

In virtual Court

CRM-M-34745-2020

-3-

pretext of performing Court marriage, the offence of rape was committed, therefore, on that date, there was no consent of the prosecutrix.

Learned counsel for the complainant has vehemently opposed the prayer for anticipatory bail on the ground that the petitioner has tried to prepare certain documents by using the blank papers signed by the victim. It is argued that the victim is carrying pregnancy of three months and the petitioner is father of unborn child. Learned counsel has referred to the FIR itself, wherein it is reported in MLR of the victim that her pregnancy test is positive and DNA sample of the victim was taken.

On a Court query, whether the petitioner is ready to give his DNA sample, learned counsel for the petitioner replied in negative.

After hearing learned counsel for the parties and considering the fact that the petitioner, initially on the pretext of performing marriage with the victim, made physical relationship with her and when she stopped, on 24.08.2020, she was called on the pretext of performing Court marriage at Bathinda and in that process, the petitioner committed rape upon her and MLR of the victim suggests that she has become pregnant, I find no ground to grant anticipatory bail to the petitioner.

Accordingly, the present petition is dismissed.

**[ARVIND SINGH SANGWAN]
JUDGE**

30.10.2020

vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No