

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

202

CRM-M-39224 of 2020

Judgment Reserved on 14.12.2020

Date of decision :-21.12.2020

Aditya Chaudhary

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.Rahul Rathore, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana for the respondent-State.

Mr.Sachin Gupta, Advocate for the complainant.

SUVIR SEHGAL, J.

Instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973, for grant of anticipatory bail to the petitioner in case bearing FIR No.0770 dated 27.10.2020 registered under Sections 376, 406, 498-A, 506 of Indian Penal Code, 1860 at Police Station Thanesar City, Kurukshetra

Facts, in brief, are that the above FIR was registered on the complaint of the prosecutrix against 07 persons in which she stated that she is working on the post of a Deputy Manager in a private bank and she came in contact with accused No.1 (present petitioner) in December, 2019 at Mohali. The accused is working as a Constable with the Punjab Police. They became good friends and in the month of May, 2020, accused No.1 in a pre-planned conspiracy, proposed marriage to the prosecutrix and assured her

that he will get married to her without the consent of his parents. After winning her confidence, he took her to a house in Mohali and forcibly, without the consent of the prosecutrix, physically exploited her. When the prosecutrix repeatedly asked him regarding marriage, he told her that they will perform a run-away marriage and then his family members will automatically agree. He won her confidence and their marriage was solemnised at Prachin Chaturmukh Mandir, Kurukshetra on 26.07.2020. On the next day, they filed a petition before the Sessions Court seeking protection of their life and liberty from the relatives of the petitioner. The petitioner persuaded the prosecutrix to withdraw the petition as he told her that his family members have accepted the marriage and they do not need any protection. Thereafter, the prosecutrix and the petitioner resided together from 27.07.2020 to 20.08.2020 at Mohali. On 24.08.2020, accused No.1 left the prosecutrix by telling her that he is going to meet his parents to convince them. Thereafter, the prosecutrix contacted the accused on phone but he talked rudely to her and threatened to get her and her family killed, claiming that as he is working in the police, he has connections with gangsters. Thereafter despite repeated calls by the prosecutrix, accused No.1 did not take her phone calls. On 04.09.2020, the prosecutrix along with two of her relations went to the house of accused No.1 at village Kharkhali where all the named accused were present. The prosecutrix and her relations were told that as the petitioner is in Government service, they will accept the prosecutrix only if Rs.20 lacs is given in dowry. Later the prosecutrix came to know that accused No.1 had been engaged with accused No.5 and their marriage was fixed for 24.10.2020. The prosecutrix sent a legal notice to accused No.1 to stop the marriage and lodged the present FIR.

Apprehending arrest, the petitioner filed a petition for anticipatory bail which was rejected by the learned Additional Session Judge vide order dated 17.11.2020, Annexure P-1. He then filed the present petition before this Court. Vide order dated 26.11.2020, notice was issued to the respondent-State. In response to the notice, the State has filed an affidavit of Deputy Superintendent of Police, Kurukshetra-III with an advance copy to the counsel for the petitioner.

Counsel for the petitioner has argued that he has been framed in a false case as a perusal of the allegations levelled in the FIR show that it is sans any details regarding the alleged physical assault. While denying the incident of May, 2020, counsel for the petitioner has argued that the petitioner was already engaged in February, 2020 which was to the knowledge of the prosecutrix. His submission is that their relationship was consensual. He has made a detailed reference to the whatsapp messages and the audio conversation which have been placed on record by way of a compact disc (CD). It is his argument that the FIR is an outcome of a love affair which went sour. He submits that the petitioner is ready to join the investigation and deserves to be granted pre-arrest bail.

Per contra, State counsel, who is assisted by counsel for the complainant, has opposed the petition. They have referred to the allegations in the FIR and contended that in the light of the categoric allegation levelled by the prosecutrix, it is clear that the petitioner had on a false pretext of marriage, allured the prosecutrix and committed rape. In order to cover up, he married with the prosecutrix in a temple on 26.07.2020 and they filed a petition before the District Court at Kurukshetra on the next day. Still further it has been submitted that the prosecutrix in her statement under Section 164

Cr.P.C. has reiterated the allegations levelled by her. Further reference has been made to the allegations in the FIR to submit that when the prosecutrix and her relations went to meet the petitioner's family, a demand of Rs.20 lacs in dowry was made. Reference has also been made to the threats extended by the petitioner to the prosecutrix.

I have considered the rival submissions of the parties and perused the material placed on record by both the parties.

Very specific and categoric allegations have been levelled by the prosecutrix against the petitioner of committing rape in the month of May, 2020 and giving her an assurance of getting married to her. These allegations have been supported by her in her statement recorded under Section 164 Cr.P.C. before the Judicial Magistrate. Nothing could be pointed out during the course of arguments to doubt the veracity of the allegations against the petitioner. Supreme Court in **Vijay alias Chinees vs. State of Madhya Pradesh** (2010) 8 SCC 191, has held that the statement of the prosecutrix, if found to be worthy of credence and reliability, requires no corroboration and the accused can be convicted on the sole testimony of the prosecutrix.

Keeping in view the gamut of facts as narrated by the prosecutrix in the FIR and the electronic exchange of messages and conversation between the two, it is apparent that the petitioner had managed to win over the trust and confidence of the prosecutrix and he took full advantage for the same. In such circumstances, the petitioner cannot be held entitled to the concession of anticipatory bail.

The petitioner is a serving official in the Police Department. He has extended threats to the prosecutrix and even gone to the extent of telling

her that he would get her eliminated. This Court is, therefore, of the opinion that there is a substance in the apprehension expressed by the State that the petitioner may threaten or pressurize the prosecutrix and other witnesses and may even hamper with the investigation. This Court feels that the custodial interrogation of the petitioner in such a situation is imperative. Therefore, the petitioner is not entitled to any relief.

This 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.

21.12.2020
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No