

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(206)

Tarsem Singh

CRM-M-516-2021
Date of Decision:- 24.09.2021
...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Sanjeev Kumar Arora, Advocate for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

...

SUVIR SEHGAL, J. (Oral)

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

This is the third petition filed under Section 438 of the Code of Criminal Procedure, 1973 seeking grant of anticipatory bail in case FIR No.73 dated 21.05.2020, registered under Section 376 of the Indian Penal Code, 1860, at Police Station Kulgari, District Ferozepur, Annexure P-1.

As per the case of the prosecution case, FIR, Annexure P-1, has been registered on the statement of the prosecutrix (name withheld) on the allegation that in the early morning hours of 15.05.2020, when she went to use the bathroom, she found Tarsem Singh (present petitioner) inside the bathroom, who gagged her, forcibly took her outside to a vacant area behind the house and when she resisted, he pushed her to the ground and raped her. Her brother-in-law and sister-in-law came outside and when a commotion was raised, Tarsem Singh, ran away from the spot.

Counsel for the petitioner has urged that there is a delay of six days in the lodging of the FIR as the alleged occurrence took place on 15.05.2020. He has referred to the representation dated 15.05.2020, Annexure P-4, submitted by the father of the petitioner, wherein he stated that some altercation had taken place between the parties. It is his argument that in the statement under Section 164 of Cr.P.C., Annexure P-2, recorded after the incident, the prosecutrix has not named the petitioner.

Per contra, learned State counsel, upon instructions from, SI Paramjit Kaur has opposed the petition. He has invited the attention of the Court to the reply filed by way of an affidavit of Deputy Superintendent of Police, Sub Division, Ferozepur and submitted that considering the nature of allegations, the gravity of offence and the fact that despite the FIR having been registered in May 2020, the petitioner is evading arrest.

I have considered the rival submissions of counsel for the parties.

The allegations levelled by the prosecutrix against the petitioner in the FIR are very categoric and specific. Though in the statement recorded by her under Section 164 of Cr.P.C., she has not named the petitioner but she has stood firm on the incident, which took place on 15.05.2020. From the reply by the State, it is apparent that after the incident of May 2020, an attempt was made to bring about a compromise between the parties and to pressurize the prosecutrix and her family from resiling from the complaint. It also deserves to be noticed that the representation, Annexure P-4, submitted by father of the petitioner, has been found to be false. Still further, the Court cannot lose sight of the fact

that the first anticipatory bail petition filed by the petitioner was withdrawn after arguments in June 2020, the second petition was withdrawn in December, 2020, with liberty to approach the Sessions Court and after the dismissal of the petition by the Sessions Court, this is the third attempt by the petitioner to invoke Section 438 of Cr.P.C, which cannot be permitted.

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.

(SUVIR SEHGAL)
JUDGE

24.09.2021

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No