

**219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(through video conferencing)**

CRM-M-4723-2021
Decided on : 10.09.2021

Vicky and another

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Munfaid Khan, Advocate
for the petitioners.

Mr. P.S.Walia, AAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

The present petition has been filed under Section 438 Cr.P.C., for grant of anticipatory bail to the petitioners in case FIR No.302 dated 28.09.2020 under Sections 376, 354-A, 354-B, 427, 457, 342, 506, 323, 148 and 149 IPC 1860 registered at Police Station Beas District Amritsar.

Learned counsel for the petitioners states that a Coordinate Bench vide order dated 12.02.2021 granted the concession of interim bail, in the following terms in the light of compromise, dated 02.11.2020, arrived at between the parties:

“Learned counsel for the petitioners submits, inter alia, that the matter has been amicably compromised between the concerned parties and that a petition, being CRM-M-37386-2020, for quashing of the present FIR has already been entertained by this Court, in which the report regarding compromise has already been called for.”

He submits that in pursuance to the order dated 12.02.2021, petitioners have joined the investigation.

Learned State counsel on instructions ASI Sukhwinder Singh does not dispute the factum of the petitioners joining investigation in compliance of order dated 12.02.2021. He submits that petitioners are not required for further interrogation.

Heard and perused the material available on record.

Prima facie there are grave and specific allegations levelled in the FIR lodged by the prosecutrix herself, soon after the occurrence in question. In her statement recorded at the time of registration of FIR in question, the prosecutrix not only named the accused including the petitioners but also gave a vivid account as to how the petitioners along with other co-accused, armed with lethal weapons trespassed into her house in the middle of the night while she was sleeping with her two daughters, and thereafter, committed gang-rape upon her. Still further, on a hue and cry raised, not only were her family members but even her neighbours attracted to the spot. Still further, the petitioners while fleeing physically, assaulted her and her family, indulged in arson by damaging her car and house-hold articles as well as extended threats of dire consequences. The motive as alleged in the FIR was that the daughter of one of the accused was suspected to be in a relationship with the husband of the prosecutrix.

The Coordinate Bench vide order dated 12.02.2021 granted interim bail to the petitioners by taking into consideration the following compromise arrived at between the prosecutrix on the one hand and the accused petitioners on the other hand in CRM-M-6208-2021:

“We Kiranjit Kaur w/o Gurpreet Singh r/o Pati Chinnewal Raya, Tehsil Baba Bakala Sahib District Amritsar Party No.1 and (1) Manjit Singh Gura s/o Najar Singh (2) Ajay s/o Manjit Singh (3) Vicky s/o Manjit Singh (4) Raja s/o Manjit Singh all residents of Dubbgarh Raya Tehsil Baba Bakala Sahib District Amritsar Party No.2. That on the statement of party No.1, one FIR No.302 dated 28.09.2020 under Sections 376/354-A/354-B/427/457/342/506/323/148/149 IPC Police Station Beas was got registered against the party No.2. I party No.1 is married woman and I am having two children and I want to secure the future of my children. Because of the above mentioned case me and my children's future will be effected and I and my children want to survive in the society, due to which I and my children can feel ashamed of the pending case. This incident occurred at the night time and I could effectively remember the faces of the accused persons and the above mentioned case was got registered in a hurry by me. I do not have any ill will with Manjit Singh Gura s/o Najar Singh, Ajay s/o Manjit Singh, Vicky s/o Manjit Singh and Raja s/o Manjit Singh all residents of Dubbgarh Rayya Tehsil Baba Bakala Sahib District Amritsar. I do not want to pursue the present case against Manjit Singh etc. I do not have any objection if the present case is quashed or cancelled or they are granted bail in this case. Party No.1 shall be bound to furnish the statement before any Court or local police if needed. After the FIR is quashed, party No.2 shall not file any complaint or compensation suit or any other case qua the party No.1. Both the parties shall remain bound by the present written compromise and if any, party disobeys the present compromise then it shall be bound to pay a fine of Rs.8 lakhs but the present

compromise shall again remain binding on both the parties. Therefore, the present compromise is written and has been read over to both parties, which has been accepted by both the parties without any kind of pressure and greed to it and has been accepted.”

This Court while deciding the petition under Section 438 Cr.PC would refrain from commenting on the contents of the compromise (Annexure P-2). More so, when prima facie it is a case of gang rape and thus, stands excluded from the category of offences, which can be compounded under Section 320 Cr.PC.

Though learned counsel for the State, on instructions, has submitted that custodial interrogation of the petitioners are not required, however, in the wake of the nature and gravity of the offence alleged and taking into account the tone and tenor of the compromise reproduced hereinabove, there is every likelihood that the petitioners could tamper with material evidence in case they are allowed the concession of anticipatory bail. It would not be out of context to observe that in case the concession of anticipatory bail is extended to the petitioners for the offences like the one in hand, it would send a wrong signal to the society at large.

Accordingly, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

10.09.2021
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No