

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

CRM-M-25448-2021
Decided on : 28.09.2021

Avtar Singh @ Tari

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Tarun Singla, Advocate
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

Manjari Nehru Kaul, J.

This is the second petition filed under Section 438 Cr.PC for grant of anticipatory bail to the petitioner in case FIR No.93 dated 09.05.2019 registered under Sections 376, 506 IPC, 1860 at Police Station Raman District Bathinda.

Learned counsel for the petitioner *inter alia* contends that a perusal of the contents of the FIR, on the face of it, revealed that it was a case of consensual relationship between two adults. He submits that the delay of two months in lodging of the FIR in question makes it further evident that a fabricated case had been planted upon the petitioner. While inviting the attention of this Court to the allegations levelled in the FIR in question, he further submits that an improbable version had been brought forth that the petitioner committed rape upon the prosecutrix in her house while her family members were asleep. It was thus, prayed that in the facts and circumstances, the petitioner be extended the concession of bail.

Per contra, learned State counsel while opposing the prayer of

learned counsel for the petitioner on instructions from ASI Ramdhir Singh has submitted that there were specific allegations levelled in the FIR against the petitioner of having committed rape upon the prosecutrix twice, after threatening her with dire consequences. He further submits that the prosecutrix had reiterated her allegations levelled against the petitioner while getting her statement recorded under Section 164 Cr.PC. It has also been submitted that the instant petition being a second one under Section 438 Cr.PC was not maintainable, more so, as subsequent to the withdrawal of the previous petition on 12.12.2020, there had been no material change in circumstances. Learned State counsel, rather submitted that after withdrawal of the previous petition under Section 438 Cr.PC on 12.12.2020 instead of surrendering and subjecting himself to the process of law, the petitioner had been on the run. He apprised the Court that proceedings under Section 82 Cr.PC had been initiated against the petitioner and it was only thereafter, for reasons but obvious, the petitioner has chosen to approach this Court by way of the instant petition under Section 438 Cr.PC.

Heard learned counsel and perused the material available on record.

This Court does not deem it fit to extend the concession of anticipatory bail to the petitioner. Prima facie there are specific and serious allegations levelled against the petitioner of committing rape upon the prosecutrix. In addition, he has failed to bring to the notice of this Court any supervening circumstances, which would warrant entertaining the instant petition. Moreover, as already apprised by the State counsel, proceedings under Section 82 Cr.PC are underway against the petitioner.

In the facts and circumstances, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

28.09.2021
sonia

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