

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

CRM-M-26154-2020 (O&M)

Date of decision: 11.01.2021

Kailash Chand

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Rajesh Bansal, Advocate for the petitioner.

Mr. Apoorv Garg, DAG Haryana.

Mr. Aman Pal, Advocate for the complainant.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through the instant petition under Section 438 Cr.P.C., the petitioner seeks anticipatory bail in case FIR No. 0097 dated 13.08.2020 registered under Sections 120-B, 313, 328, 376(2)(n) IPC and Section 12 of the Protection of Children from Sexual Offences Act, 2012, at Police Station Panipat Sadar, District Panipat.

On 04.09.2020, this Court passed the following order :-

“Case is taken up for hearing through video conferencing.

Through the instant petition under Section 438 Cr.P.C., the petitioner seeks anticipatory bail in case FIR No. 0097 dated 13.08.2020 registered under Sections 120-B, 313, 328, 376(2)(n) IPC and Section 12 of the Protection of Children from Sexual Offences Act, 2012, at Police Station Panipat Sadar, District Panipat.

Learned counsel for the petitioner states that the complainant in present case got married with Rohit Sharma in the year 2015. The allegations against the petitioner are that the petitioner had committed rape upon the complainant in the year 2006, when she was minor in age, and continued doing as such even after her marriage. The petitioner had threatened her to viral her photos and video clips and also took her jewellery i.e. 9.50 tola of gold by saying that he would return the same after 5-6 months but the same has never been returned.

It is further contended that the present FIR is a counter blast to the FIR No. 290 dated 30.06.2020, which was registered under Sections 384, 389, 506 and 120-B IPC at Police Station Gharaunda, District Karnal, against the complainant and her family members. The complainant while seeking bail in the FIR No. 290 dated 30.06.2020, had specifically submitted before this Court that petitioner-Kailash Chand had been their tenant for the period 2009-2012 and during that period she had developed a relationship with him and that she wanted to continue the same even after she got married with Rohit Sharma in the year 2015 as reflected in the order dated 20.07.2020 (Annexure P-5).

Notice of motion.

On the asking of this Court, Mr. Ramesh Kumar Ambavta, AAG Haryana. accepts notice on behalf of the respondent-State.

At this stage, Mr. B.S. Jatana, Advocate, appears on behalf of the complainant.

Learned State counsel assisted by the learned counsel for the complainant, submits that at the time of the occurrence the prosecutrix was a student of 8th class and that the petitioner taking undue advantage of her innocence committed rape upon her and continued doing so even after her marriage. Thus, they oppose the prayer made in the present petition.

Adjourned to 11.01.2021.

In the meantime, the petitioner is directed to join the investigation and if he is sought to be arrested, he shall be released on interim bail to the satisfaction of Investigating Officer/Arresting Officer subject to the conditions as envisaged in Section 438 (2) of the Code of Criminal Procedure.”.

Learned counsel for the petitioner states that pursuant to the order dated 04.09.2020 passed by this Court, the petitioner has joined the

investigation.

Learned State counsel on instructions from SI Ramesh Kumar, states that the petitioner has joined the investigation and that though he is required for further investigation, yet his custodial interrogation is not required.

I have heard the learned counsel for the parties.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the order dated 04.09.2020 granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438 (2) of the Code of Criminal Procedure.

However, it will be open to the prosecution to apply for cancellation of bail, in case the petitioner violates the conditions imposed upon him while granting him bail.

(HARNARESH SINGH GILL)
JUDGE

11.01.2021

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No