

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

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**CRM-M-33285-2021 (O&M)
Decided on : 30.11.2021**

Sandeep Singh

... Petitioner(s)

Versus

State of Punjab and another

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. P.S. Ahluwalia, Advocate
for the non-applicant/petitioner(s).

Mr. Luvinder Sofat, AAG, Punjab
assisted by SI Satnam Singh.

Mr. Gurpal Kaur Daulat, Advocate
for applicant-respondent No.2.

MANJARI NEHRU KAUL, J. (Oral)

CRM-40294-2021

Application is allowed and the short reply and Annexures R2-1 to R2-6, filed along with the application are taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

CRM-M-33285-2021

The present petition has been filed under Section 438 Cr.P.C., for grant of anticipatory bail to the petitioner, in case FIR No. 0093, dated 22.06.2021, lodged under Section 376(2)(n) of IPC, registered at Police Station City Morinda, District Rupnagar (Annexure P-1).

Learned counsel for the petitioners contends that totally false allegations have been levelled against the petitioner of having physical relations with the complainant on the pretext of marrying her. Learned counsel submits that the complainant is a mature lady who is working in the

police department and was married twice before entering into a relationship with the petitioner. It is submitted that the petitioner never promised the complainant to marry her at any point in time and the relationship, if any, between them was consensual. Learned counsel submits that earlier also the complainant had lodged an FIR No.34 dated 25.03.2016 under Sections 376, 420, 493 IPC registered at Police Station Dehlon, District Police Commissionerate, Ludhiana. It is further submitted that the complainant had levelled similar allegations before the police authorities at Fatehgarh Sahib, wherein the matter was settled and she had also given an affidavit in this regard (Annexure P-2). Further submits that the police on receipt of the complaint of the prosecutrix inquired into the matter and had found no substance in the allegations levelled. In support of his submission, learned counsel has invited the attention of this court to the inquiry report which is part of the FIR annexed as Annexure P-1. Reliance has been placed upon the judgment in **Sonu @ Subhash Kumar v. State of Uttar Pradesh 2021 SCC Online SC 181** .

Learned counsel for the petitioner submits that pursuant to order dated 17th August, 2021, passed by this Court, the petitioner has joined investigation.

Learned State counsel assisted by learned counsel for the complainant, has not disputed the factum of the petitioner joining investigation. Learned State counsel has submitted that he has instructions to state that the petitioner is not required for further investigation, much less, custodial interrogation.

Learned counsel for respondent No.2 (complainant-prosecutrix) has, however, opposed the prayer and submissions made by the counsel

opposite. She has submitted that the petitioner has not come to this Court with clean hands, inasmuch as, in an affidavit duly sworn-in by the petitioner, which is annexed as Annexure R2-1 with CRM-40294-2021 filed by respondent No.2 (complainant), he had admitted to his relationship with the prosecutrix and therein also agreed to marry her, provided she withdrew the complaint which had been filed against him at SPH Fatehgarh Sahib, for offence under Section 376 of IPC.

Learned counsel for the petitioner has strongly disputed the authenticity of the affidavit, on which the learned counsel for respondent No.2 – complainant, is placing reliance. He has submitted that it is a forged and fabricated document, inasmuch as, it is undated. In support he has invited the attention of this Court to the index as well, wherein, also the date reflected is 'Nil'.

On a pointed query put to learned State counsel as to whether any such affidavit had come to light during investigation, subsequent to the complaint being made to the police authorities at Fatehgarh Sahib, it was submitted that a thorough inquiry was carried out and no substance therein was found by the police vide Annexure P-1.

Heard.

In view of the above, the petition is allowed and interim order dated 17th August, 2021, is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C.

(MANJARI NEHRU KAUL)
JUDGE

November 30, 2021

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No