

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

CRM-M-37436-2021

Date of decision : 01.10.2021

Sajid

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ajay Bhardwaj, Advocate
for the petitioner.

Mr. B.S. Virk, DAG, Haryana.

Ms. Rosi, Advocate
for the complainant.

RAJESH BHARDWAJ, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Prayer in this petition filed under Section 438 of Cr.P.C. is for grant of anticipatory bail in case FIR No.0318 dated 18.08.2021, registered under Sections 34, 341, 376(2) (n), 452 IPC and Section 25 of Arms Act, at Police Station Pataudi, Gurugram.

It has been contended that the FIR in question has been registered by the prosecutrix wherein, it was alleged that on 2nd August, 2021, the petitioner came to the house of the prosecutrix in the night by jumping over the terrace while she was asleep. Her mouth was gagged and the petitioner committed rape upon her. Subsequently, he

extended threats for elimination of the prosecutrix and under threat, she could not disclose the same to her family members. She had alleged that due to the non-disclosure of the incident to the family members, the petitioner became so fearless that he tried to repeat the same on 10th August, 2021. Later on, the promise was made by his family members to perform *nikah* with the prosecutrix but was not honoured. The FIR was lodged to take the legal action against the petitioner. It was contended by counsel for the petitioner that the statements made by the prosecutrix in FIR then in Section 161 Cr.P.C. and Section 164 Cr.P.C. are not consistent. He submits that the prosecutrix as well as the petitioner both are major. From the alleged promise of marriage, no offence of misconception of fact is made out. Thus, he submits that the petitioner deserves to be granted an anticipatory bail.

Ms. Rosi, Advocate for the complainant opposes the prayer made by counsel for the petitioner. She submits that the consent of the prosecutrix was taken only by extending false promise of marriage. She has drawn the attention of the Court to the allegations made in the FIR where a specific allegation of rape with the prosecutrix is made out. She submits that no case for grant of anticipatory bail is made out.

Learned State counsel has submitted that the investigation is stalled as there was an interim order passed by this Court not to take coercive steps against the petitioner. He has submitted that the allegations are specific and a thorough investigation is required in this case for which the custodial interrogation is necessary.

I have heard learned counsel for the parties and perused the record.

In the overall facts and circumstances of the case, I find that there are no extraordinary circumstances to grant the concession of anticipatory bail to the petitioner whose custodial interrogation is necessary to unravel the truth.

Petition being devoid of any merits, is hereby, dismissed.

(RAJESH BHARDWAJ)
JUDGE

01.10.2021
m. sharma

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