

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M No.42380 of 2021 (O&M)

Date of Decision:25.10.2021

(Heard through VC)

Jatin Narula

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. D.S. Saini, Advocate
for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

Mr. Harsh Bungar, Advocate
for the complainant.

JAISHREE THAKUR, J. (ORAL)

This is a petition that has been filed under Section 438 Cr.P.C. seeking anticipatory bail in FIR No.42 dated 21.07.2018 registered under Sections 328, 376, 506 IPC, Section 67 of the IT Act and Section 6 of the POCSO Act, 2012 at Police Station Sector 5, Panchkula.

Learned counsel for the petitioner herein would contend that the allegations as set out in the FIR do not constitute an offence under Section 376 IPC. It is argued that in fact the petitioner herein and the prosecutrix were well known to each other. It is also argued that there is no medical examination of the prosecutrix, which is a condition precedent to constitute an offence of rape as alleged in the FIR. It is submitted that the matter was compromised between the parties and under the said compromise, the petitioner herein and the prosecutrix were to solemnize a marriage, however, the prosecutrix has solemnized marriage elsewhere. It is

also submitted that the petitioner himself was 17 years of age at the time of alleged occurrence and therefore, prays that the petitioner herein may be permitted to join investigation.

Learned counsel appearing on behalf of the respondent State and the complainant oppose grant of bail by contending that the prosecutrix has in her statement under Section 164 Cr.P.C. affirmed all allegations as set out in the FIR. It is also submitted that a compromise had been arrived at between the parties in which the petitioner herein had admitted that he had developed physical relationship with the prosecutrix, who was a minor at that time. It is further submitted that the petitioner has also admitted of making a video and MMS of the prosecutrix and was blackmailing her.

Learned State counsel would contend that conduct of the petitioner is such that his custodial interrogation would be required as the mobile phone in which he has admittedly made video and MMS needs to be recovered, while also submitting that the compromise itself has not fructified. It is further contended that investigation needs to be completed, which was stayed on account of compromise arrived at between the parties wherein the parties were to solemnize the marriage.

I have heard learned counsel for the parties and have perused the paper book. Admittedly, the compromise on the basis of which arrest of the petitioner was stayed has not fructified and in the said compromise, the petitioner herein has admitted that he had made physical relationship with the prosecutrix, who was minor at that point of time and had also made a video/MMS of her. In view of the said fact, this Court does not find any ground to grant concession of anticipatory bail to the petitioner as the

investigation in the matter is yet to be completed and recovery of the device from which the petitioner herein had made MMS of the prosecutrix is to be recovered for which custodial interrogation of the petitioner would be required. Consequently, the instant petition stands dismissed.

October 25, 2021
Pankaj*

(JAISHREE THAKUR)
JUDGE

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