

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-44198-2020 (O&M)****Date of Decision: 07.01.2021**

Shivram @ Sanjay @ Satwinder Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Ashok Bhardwaj, Advocate, for the petitioner.

Ms. Sheenu Sura, DAG, Haryana,
assisted by SI Madan Lal.

Ms. Amrinder Kaur, Advocate, for the complainant.

*(proceedings conducted through video conferencing)***GURVINDER SINGH GILL, J. (Oral)**

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.110 dated 12.07.2020 at Police Station Odhan, District Sirsa, under Section 346 IPC (Sections 344, 376(2)(N), 376(2)(H), 427, 120-B IPC were added later on).
2. The FIR in question was lodged at the instance of Rupinder Kumar, husband of the victim, wherein it is alleged that he usually goes for a walk early in the morning at about 4.00 AM and that on 10.07.2020, when he returned back to his house at about 5.00 AM after taking a walk, he found that his wife (victim) was missing from home. He also noticed that some cash, clothes and jewellery were also missing.

3. Learned counsel for the petitioner has submitted that he is now sought to be falsely implicated in the present case on the basis of a statement of the prosecutrix recorded in terms of Section 164 Cr.P.C. after about 4 months of lodging of the FIR, wherein she has levelled some vague allegations against the petitioner without referring to any time period. It has further been submitted that in fact the allegations as levelled in the said statement dated 15.11.2020 recorded under Section 164 Cr.P.C. virtually stand belied when examined in context of the other complaints made by the prosecutrix i.e. complaints dated 13.10.2020 (Annexures P-5 & P-7), wherein she has not stated a word against the petitioner and rather the petitioner is referred to as a friend.
4. Opposing the petition, the learned State counsel assisted by the counsel for the complainant has submitted that since there are specific and categoric allegations against the petitioner in the statement recorded under Section 164 Cr.P.C., no case for grant of anticipatory bail is made out.
5. I have considered rival submissions addressed before this Court.
6. A perusal of the documents annexed with the petition would show that the prosecutrix was in fact married to the complainant Rupinder Kumar. However, the prosecutrix left her matrimonial home and started residing with one Harinder Kumar while she was pregnant. Thereafter, the prosecutrix alongwith Harinder Kumar approached this Court by way of filing a protection petition i.e. CRWP-5095-2020, wherein it was alleged that the husband of prosecutrix was a drunkard and used to give beatings to her and on

account of which she apprehended threat to her life. The said petition was disposed of vide order dated 21.09.2020, which reads as follows:

“Heard through Video Conferencing.

Learned counsel for respondent Nos.9 to 11, on instructions from respondent No.9 i.e. the husband of petitioner No.2, stated that there is no threat or danger to the life of the petitioners at the hands of respondent Nos.9 to 11. He has further stated that respondent No.9 does not want DNA test done to determine the parentage of the unborn child of petitioner No.2 and further that respondent No.9 has no objection to filing of a joint petition with petitioner No.2 under Section 13B of The Hindu Marriage Act, 1955 for grant of divorce by mutual consent.

In view of the statement made by learned counsel for respondent Nos.9 to 11, Mr. Bhardwaj states that he has no objection if the present petition is disposed of as having been rendered infructuous.

In view of the above, the present petition is disposed off as having been rendered infructuous.”

7. The aforesaid facts would indicate that the victim had in fact chosen to reside with one Harinder Sharma. Further, a perusal of the application dated 13.10.2020 (Annexure P-5) and another application of even date (Annexure P-7) would show that while allegations are levelled against one Navdeep Kumar, son of the uncle (*Taya*) of prosecutrix and one unknown person to the effect that they had extended threats to the prosecutrix, the petitioner is referred to as a friend. There is not a word in the said complaints, which were made in October, 2020 against the petitioner. However, interestingly when the statement of the prosecutrix came to be recorded in November, 2020, she has levelled some vague

allegations against the petitioner without specifying any date. The gist of the said statement reads as follows:

“Stated that 2 years ago I got married to Rupinder Kumar on 10th December. Here I acquainted with Harinder Kumar who was my brother in law in relation. On 9th July, 2020 I went to Badrukhan, Sangrur. There was a *Tantrik* namely Shivram @ Sanjay on Dhuri road, we went to his plot. He used to make me do wrong things. I was forcefully kept there. There were also Beant Chand, Hukam Chand, Karamjit Kaur, Jatinder Goldi and Davinder Kumar were also there, who were in connivance with Shiv Ram. They were not allowing me to talk with my mother and father. They broke my phone. Few days back, I secretly send Whatsapp messages to my brother from the phone of Harinder. Thereafter my mother, father and my brother came to take me along. I came back with them from the place of Shivram. I am 8 months pregnant. There is danger of life to me, my child and my family members. I may be protected from above Shivram and action may kindly be taken against accused.”

8. A perusal of the aforesaid statement would tend to show that when the prosecutrix went to Badrukhan, Sangrur in July, 2020 so as to stay at the plot of the petitioner, then she was kept forcibly there and that the petitioner committed wrong with her. If this position was correct, then it remains unexplained as to why in the complaints submitted in October, 2020, there is no reference to any such conduct on the part of petitioner.
9. Having regard to the aforestated position, this Court is of the opinion that it is not a case where the custodial interrogation of the petitioner is required. The petition, as such, is accepted and the petitioner, in the event of arrest, is ordered to be released on bail

subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

07.01.2021

Vimal

(GURVINDER SINGH GILL)**JUDGE**Whether speaking/reasoned: **Yes/No**Whether reportable: **Yes/No**