

105 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-3044-2022
Date of Decision: 28.01.2022

Krishan

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present:- Mr. Ram Bilas Gupta, Advocate
for the petitioner.

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 the present petition is for grant of anticipatory bail to the petitioner in case FIR No.341 dated 29.09.2021, registered under Sections 354-A, 376, 506 IPC at Police Station Chand Hut, District Palwal.

As per the factual matrix of the case, the prosecutrix lodged the present FIR wherein, it was alleged that on 31.08.2021 at about 08:30 pm, Krishan son of Tota Singh whose shop is near her house called her. When she went there, he caught hold her hand and pulled her inside his shop and closed down the shutter of his shop and forcibly raped her. Thereafter, she was threatened to be killed. The accused thereafter kept persistently harassing her. Having fed up, the complainant approached the police and lodged the FIR. Request was made to take the legal action against the culprit. Apprehending his arrest, the petitioner approached the learned

Additional Sessions Judge, Palwal for grant of anticipatory bail who after

hearing both the sides, declined the same vide his order dated 15.11.2021. Aggrieved by the same, the petitioner approached this Court praying for grant of anticipatory bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in this case. He has submitted that the prosecutrix is a widow and mother of two children whereas, the petitioner is also married and has two children. He submits that as per the allegations in the FIR, occurrence took place on 31.08.2021 whereas, the complaint was lodged on 29.09.2021 i.e. after a delay of 29 days. He further submits that the complainant and the petitioner knew each other very well and they went to Goverdhan at Mathura on 01.09.2021 on motorcycle and hence, the allegations made by the prosecutrix are totally false and frivolous. He submits that both the petitioner and the complainant are of the age of majority and even if the allegations are taken to be true then from the facts and circumstances, it was a consensual relationship in which no offence under Section 376 IPC is attracted. He submits that the learned Additional Sessions Judge, Palwal has illegally declined the prayer for grant of anticipatory bail and hence, the petitioner deserves to be granted anticipatory bail.

I have heard learned counsel for the petitioner and perused the records.

It is evident from the allegations made in the FIR that the prosecutrix is a widow and mother of two children and on the other side the petitioner is also married and father of two children. There are specific allegations by the prosecutrix that the petitioner dragged her inside his shop and thereafter committed rape upon her. She was threatened to be killed. It

has been contended by learned counsel for the petitioner that both the complainant and the petitioner went to Mathura on motorcycle and thus, they knew each other very well. The petitioner has approached the Court for grant of anticipatory bail in view of Section 438 Cr.P.C. The parameters for the consideration of the same are like the gravity of the offence, chances of the accused fleeing from the justice, probability of tampering with the evidence. Even as per the judicial pronouncement of the Hon'ble Supreme Court, it has been observed that while considering the anticipatory bail, the Court is to strike a balance between the individual liberty and that of the interest of the society at large. The statutory parameters and the judicial pronouncements when applied to the facts and circumstances of the present case, in the opinion of this Court, the petitioner does not qualify to be enlarged on anticipatory bail.

In view of the above, petition being devoid of any merits, is hereby dismissed.

28.01.2022

m.sharma

(RAJESH BHARDWAJ)
JUDGE

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