

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(101)

CRM-M-6883-2021

Date of decision: 25.05.2022

Mukesh Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sanjay Verma, Advocate for the petitioner.

Ms. Mahima Yashpal, Deputy Advocate General, Haryana.

...

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in FIR No.05 dated 18.01.2021, registered for offence under Section 376 (2) (n) of the Indian Penal Code, 1860, at Police Station Women West Manesar, Gurugram.

By making a detailed reference to the whatsapp chat (Annexure P-1) between the petitioner and the prosecutrix, counsel for the petitioner contends that despite the fact that the petitioner had allegedly misled the prosecutrix regarding his marital status, she was still insisting and wanted to meet him. Counsel has also invited the attention of the Court to order dated 15.02.2021 passed by this Court, which is reproduced hereunder, whereby he was granted interim bail:-

“Case heard by video conference.

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon FIR No.05, dated 18.01.2021, having been registered at Police Station Women, West Manesar, Gurugram, alleging therein the commission of an offence punishable under Section 376(2)(n) of the IPC.

Learned counsel for the petitioner submits that the petitioner does not deny his relationship with the prosecutrix but further submits that it was a wholly consensual relationship, with the prosecutrix being 27 years of age, in support of which he also points to the transcript of what is stated to be a 'Whatsapp' chat dated 25.12.2020 (copy Annexure P-1), in which she has also stated that the petitioner was blocking her time and again.

He points to that part of the conversation as has been annexed as Annexure P-2 with the petition, to submit that in fact the prosecutrix had demanded money to the tune of Rs.2 lakhs from him.

Notice of motion.

On the asking of the Court, Mr. B.S.Virk, DAG, Haryana, accepts notice on behalf of the respondent State.

A copy of the petition be e-mailed to him today itself by learned counsel for the petitioner.

Upon query to learned State counsel he submits that as per his instructions from ASI Suman, the age of the prosecutrix is not denied to be 27 years old and that she had also refused to get herself medically examined.

The petitioner is stated to be about 28 years of age.

However, Mr. Virk submits that the petitioner is a married man and consequently, if he promised the prosecutrix that he will marry her, then obviously he was making a false promise, and therefore the provisions of Section 376 IPC would be attracted.

Having considered the matter, simply at this stage in view of the fact that the prosecutrix allegedly also demanded Rs.2 lakhs from the petitioner, which the learned counsel has stated was not paid by the petitioner, the petitioner is directed to join investigation within 5 days, and if, upon him so joining, he is sought to be arrested, he shall be released on interim bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Duty Magistrate, till the next date of hearing.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilqa Magistrate immediately, who would then summon the

arresting officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 10.03.2021.

A gazetted officer is directed to file a reply to the petition, obviously also looking at what has been argued before this court as noticed hereinabove.”

State has filed two affidavits and in its affidavit dated 05.04.2021, it has been submitted as under:-

“5. That the recording of the said Pen Drive was got verified through the SHO Women Police Station, Manesar, Gurugram and the same were also verified by the deponent, by hearing the same. Thereafter, the prosecutrix was also joined in the proceedings. As per version of the prosecutrix as well as recording contained in the pen drive, it has been found that the petitioner offered the money to the prosecutrix and she consented to take the money. No demand of money on the part of the prosecutrix came forth. The prosecutrix also stated that the petitioner was already married and he has cheated her by concealing the same. The contents regarding blackmailing the petitioner by the prosecutrix did not come forth. Thus, the plea taken by the petitioner in the present petition is not sustainable.”

Upon instructions from L/ASI, Geeta, State counsel submits that the petitioner has joined investigation and is no longer required for

custodial interrogation.

In view of above facts, but without commenting on the merits of the case, present petition is allowed. Order dated 15.02.2021 is made absolute, subject to the conditions laid down in Section 438 (2) of the Code of Criminal Procedure.

(SUVIR SEHGAL)
JUDGE

25.05.2022
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes/No