

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-8180-2022

Date of Decision: March 25, 2022

Kulwinder Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Ms. Dhivya Jerath, Advocate,
for the petitioner.

Mr. V.G. Jauhar, Sr. DAG, Punjab.

*(The case has been taken up through
video-conferencing on account of Covid-19
pandemic).*

Vivek Puri, J.

Petitioner-Kulwinder Singh is seeking anticipatory bail in case bearing FIR No. 145, dated 22.07.2021, under Sections 376/506 of the Indian Penal Code, registered at Police Station Bhawanigarh, District Sangrur.

Briefly, the case has been registered on the basis of the statement of the prosecutrix alleging that she is aged about 33 years and having two children. On account of some dispute

with her husband, she has been residing in her parental house. The father of the prosecutrix has expired and her mother was working as a labourer. The prosecutrix started doing the work of orchestra for earning the livelihood. She came in contact with Lovepreet Singh and they shared their mobile numbers. On 21.07.2021, Lovepreet Singh made a call and asked the prosecutrix to meet her. The prosecutrix refused to do so. However, on the insistence, she went to meet Lovepreet Singh at Mata Modi Chowk, Sunam where he along with an unknown friend were present in a car. The prosecutrix was taken to a farm where Lovepreet Singh and his unknown friend forcibly entered into physical relation with her.

Learned counsel for the petitioner contends that in fact the name of Lovepreet Singh was Gurpreet Singh which was revealed in the supplementary statement of the prosecutrix. Furthermore, the prosecutrix was in relationship with Gurpreet Singh and Gurpreet Singh, who has been exonerated by her and the petitioner has been falsely implicated.

On the contrary, learned State counsel has opposed the bail application and argued that

an inquiry into the matter has been conducted wherein Gurpreet Singh has been found to be innocent. However, the medical examination of the prosecutrix was conducted and the sample for detection of spermatozoa and DNA have been procured. During the course of inquiry, it has emerged that Gurpreet Singh along with the petitioner had gone to Sunam in a car to meet the prosecutrix. Thereafter, both of them along with the prosecutrix were coming to village Gharachon. While sitting in the car, the petitioner was looking at the prosecutrix with an evil intention. On the insistence of the petitioner, they went to a tubewell motor. Gurpreet Singh was sent to a food and beverage shop in village Nagra and the petitioner along with the prosecutrix were alone at the tubewell motor. The petitioner had committed rape upon the prosecutrix and was threatened with death in the event, she disclosed the incident to Gurpreet Singh or any other person.

Merely because the name of the petitioner has not been mentioned in the FIR or during the course of inquiry / investigation, a different story is emerging, it cannot be concluded that

the allegations against the petitioner are false. The FIR cannot be termed to be encyclopedia of the entire facts and circumstances of the case. Although, in the FIR, the allegations are leveled to the effect that the petitioner along with the co-accused Gurpreet Singh (whose name has been mentioned as Lovepreet Singh in the FIR) had committed rape upon the prosecutrix, however, during the course of inquiry, it is emerging that in fact, the petitioner had committed rape upon the prosecutrix finding an opportune time when Gurpreet Singh was sent to collect the food and beverages. The matter does not rest here. Even the petitioner had threatened the prosecutrix with death in the event she narrated the incident to anyone, which aggravates the gravity of the allegations against the petitioner.

The anticipatory bail is an extraordinary relief and cannot be granted lightly.

Keeping in view the nature and gravity of accusation and furthermore, the role of the petitioner as emerging during the course of inquiry, no exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner. The matter requires thorough

probe and investigation and custodial
interrogation of the petitioner appears to be
essential for the proper investigation of the
case.

The instant petition is dismissed.

March 25, 2022
vkd

[Vivek Puri]
Judge

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