

CRM-M-12123-2022

Date of decision: 23.05.2022

GURWINDER SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

**CORAM: HON'BLE MR. JUSTICE VIVEK PURI**

Present: Mr. Amandeep Singh Manaise, Advocate  
for the petitioner.

Ms. Ruchika Sabherwal, AAG, Punjab.

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**VIVEK PURI, J. (ORAL)**

Short reply by way of affidavit of Shubeg Singh, PPS, Deputy Superintendent of Police, PBI, Fazilka with additional charge of Sub-Division, Jalalabad on behalf of the respondent-State has been filed and the same is taken on record.

Petitioner is seeking anticipatory bail in the case bearing FIR No. 191 dated 25.12.2021, under Sections 376/506 IPC, registered at P.S. Vairo Ke, District Fazilka.

Briefly, the FIR has been registered on the basis of the statement of the prosecutrix alleging that she is aged about 22 years. She was married with Harwinder Singh and the marriage ended in divorce. The prosecutrix came in contact with the petitioner who proposed her for marriage. On 20.02.2021 at about 07:30 PM, the petitioner called the prosecutrix to his house and committed rape upon her. Manjit Singh, the brother of the petitioner also extended help to him. The prosecutrix managed to escape and she was threatened with death in the event, she disclosed the incident to anyone.

Learned counsel for the petitioner contends that the prosecutrix is aged about 30 years. Firstly, her marriage was solemnized with Malkit Singh in the year 2009 and it ended in Panchayati Divorce. Subsequently, she solemnized marriage with Harwinder Singh which also ended in Panchayati Divorce. The petitioner is aged about 30 years and false allegations with regard to commission of rape on the pretext of marriage have been levelled against him. The relationship between the parties was consensual. The petitioner is outstanding sports person and pursuing to join the Defence Services. There is a delay of 03 days in lodging the FIR.

Learned State counsel has opposed the bail application on the score that there are categorical and specific allegations with regard to commission of rape levelled by the prosecutrix in the FIR and even, in her statement recorded under Section 164 Cr.P.C and she has specified her age to be 26 years. There are specific allegations with regard to commission of rape and threats having been extended to her by the petitioner.

It is immaterial as to whether the petitioner was married once or twice at the earlier instance. Suffice is to say that there is specific and categorical allegation levelled by her against the petitioner with regard to commission of forcible sexual intercourse. Although, the FIR has been registered after a delay of 03 days but the version of the prosecutrix is to the effect that she was threatened with death in the event, she narrated the incident to anyone. As such, it shall not be appropriate to disbelieve the version of prosecutrix on the ground of delay. Furthermore, the medical examination of the petitioner was conducted. The vaginal swabs were sent to Forensic Science Laboratory and the report is still awaited. It will be too early to conclude that the relationship between the parties was consensual in view of the specific and categorical allegations levelled

no extra ordinary circumstances are made out to extend the concession of pre-arrest bail to the petitioner.

In view of the above, the present petition is dismissed.

23.05.2022  
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(VIVEK PURI)  
JUDGE

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