

208 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-17162-2021
Date of Decision: 18.01.2022

SUNNY KUMAR ... PETITIONER
V/S
STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Prateek Pandit, Advocate for the petitioner.

Ms. Ruchika Sabherwal, AAG Punjab.

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

* * *

VIVEK PURI, J. (ORAL)

On 23.04.2021, following order was passed:

“Case is taken up for hearing through video conferencing.

This is a petition under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.52 dated 06.03.2021 under Section 376 and 120-B of IPC, registered at Police Station Phillaur, District Jalandhar (Rural).

Learned counsel for the petitioner states that the petitioner and the complainant were in love with each other and had a detailed talks on mobile, whereas the petitioner went to Dubai in the year 2018 and had returned on 18.03.2020. Thereafter, the petitioner and the complainant agreed to solemnize marriage and went to select the marriage palace, whereas it has been alleged that the complainant was raped by the petitioner on 24.01.2021.

Learned counsel for the petitioner further states that there is a delay of 45 days in lodging the FIR and there was a proposal for marriage by the petitioner with the complainant, but the petitioner received a telephonic call on his mobile number and also the photographs which indicates that the complainant had an affair with some other person and was maintaining physical relationship with him and because of that, when the petitioner confronted the complainant, this present FIR has been lodged.

Learned counsel for the petitioner

undertakes to place on record the conversation and any other document of the complainant with the third person.

Notice of motion for 10.05.2021.

On the asking of this Court, Mr. Avtar Singh Sandhu, Addl. A.G., Punjab, accepts notice on behalf of the respondent-State.

In the meantime, arrest of the petitioner shall remain stayed.”

Subsequently, on 27.08.2021 following order was passed:-

“CRM-27160-2021

Application is allowed, as prayed for.

Annexures A-1 and A-2 are taken on record.

CRM-M-17162-2021

The instant petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.52, dated 06.03.2021, registered under Sections 376, 120-B of IPC at Police Station Phillaur, District Jalandhar (Rural).

*It is argued that there is a delay of more 45 days in registering the FIR. It is submitted that the petitioner herein received a telephonic call on his mobile and also photographs which would indicate that the prosecutrix was in relationship with someone else and that is why, he could not solemnize marriage with her. It is also submitted that the offence of rape would not be made out in terms of judgment rendered by the Hon'ble Supreme Court in **Pramod Suryabhan Pawar Versus State of Maharashtra and another-2019(4) R.C.R. (Criminal) 135.***

Adjourned to 17.01.2022.

Meanwhile, the petitioner is directed to join the investigation within a period of one week and on his doing so, the petitioner be released on interim bail subject to his furnishing personal/surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

Thereafter on 02.12.2021, the petitioner was granted more time to join the investigation.

The learned counsel for the petitioner states that in pursuance of the interim directions issued by this Court, the petitioner has joined the investigation. The investigation of the case is complete and challan has already been presented in the Court.

Learned State counsel, on instructions from ASI Umesh Kumar, has not disputed the factual position of the case and has stated that the petitioner has joined the investigation and his custodial interrogation is not required.

In these set of circumstances, sufficient exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner. The order dated 27.08.2021, vide which the petitioner was granted interim bail, is made absolute.

The petition stands allowed.

(VIVEK PURI)
JUDGE

18.01.2022

Janki

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