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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-17294-2022

Date of Decision: April 27, 2022

Avinash

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Aditya Sanghi, Advocate
for the petitioner.

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RAJESH BHARDWAJ, J.(ORAL)

Instant petition has been filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case FIR No.95, dated 23.03.2022, under Sections 365/376(D)/506/34 IPC and Section 25 of the Arms Act 54 of 1959, registered at Police Station Ateli, District Mahendergarh.

As per the allegations in the FIR, the prosecutrix lodged the FIR alleging therein that on 30.12.201 at 8.30 a.m. when she was going to college, she was intercepted by an Innova car in which three persons were sitting apart from driver. Out of them, she knew only Avinash, i.e. the petitioner. They offered her to drop her to college. On her refusal, she was forcibly made to sit in the vehicle. Thereafter, Avinash at the pistol point, threatened her not to raise noise. She was taken to unknown place and there all the three boys raped her one after another. Before that, she was made to drink some intoxicated drink also. Thereafter, all the three accused got her married with accused Avinash. It is further alleged in the FIR, that the

brought the prosecutrix back and left her on the road near her village and threatened to kill her if she would tell anyone about this. Her obscene photographs were also taken. Thereafter Avinash kept her blackmailing and raped her by taking her to some hotel. Thereafter she brought it to the notice of her parents and then the present FIR was lodged.

Investigation was commenced. Apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge, Narnaul, praying for grant of anticipatory bail. However, after hearing the parties, bail application of the petitioner was dismissed by the Court vide its order dated 28.03.2022. Aggrieved by the same, the present petition has been filed by the petitioner.

Counsel for the petitioner has vehemently contended that petitioner and the prosecutrix both are major and the allegations levelled in the FIR are totally false and frivolous. He submits that both, the petitioner and the prosecutrix, were in relationship and from their whatsapp conversation as well as the photographs placed on record, the petitioner and the prosecutrix having been shown performing the marriage, it cannot be said that both had not been in a consensual relationship. He further submits that the allegations pertaining to the gang rape are also false and frivolous and the petitioner has never been involved in any of the offence earlier and has no criminal antecedents.

Heard.

The allegations by the prosecutrix are not only against the petitioner but against the co-accused as well. She has alleged in categorical terms that she was raped by all the three accused one after another. She has

further alleged that she was first kidnapped, given some intoxicated drink

and thereafter she was ravished and her obscene photographs were also taken on the basis of which she was being blackmailed. Investigation is at the threshold. The arguments raised by counsel for the petitioner pertaining to false and frivolous allegations are totally the subject matter of thorough and fair investigation. In view of the law settled by the Hon'ble Apex Court in State (rep. By CBI) vs Anil Sharma (1997)7 SCC 187, this Court finds that granting anticipatory bail to the petitioner, at this stage, would scuttle the ongoing investigation.

Hence, taking into consideration the facts and circumstances of the present case on the anvil of parameters of Section 438(1) Cr.P.C., this Court finds that petitioner does not qualify the concession of anticipatory bail. Hence, the present petition is dismissed being devoid of any merit.

April 27, 2022
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(RAJESH BHARDWAJ)
JUDGE

1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No
Yes/No