

216 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25628-2022

Date of Decision: 23.08.2022

BUNTY @ KRISHAN LAL

... PETITIONER

VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Munish Gupta, Advocate, for the petitioner.
Ms. Ruchika Sabherwal, DAG, Punjab.
Mr. N.S.Gill, Advocate, for the complainant.

VIVEK PURI, J.(ORAL)

The petitioner is seeking anticipatory bail in case bearing FIR No.55 dated 24.04.2022 under Sections 109/376-D/506/120-B IPC registered at Police Station Garhshankar, District Hoshiarpur.

Briefly, the FIR has been registered on the allegations that the petitioner had telephonically called the prosecutrix, who is aged about 21 years, on 22.04.2022. The petitioner alongwith his sister-in-law and friend, namely, Sunny, took her in a car to village Billron. The prosecutrix was taken to the cattle room by the petitioner. His sister-in-law and Sunny remained sitting in the car. In the cattle room, the petitioner had committed wrong act with the prosecutrix against her consent.

Learned counsel for the petitioner contends that the petitioner and prosecutrix, who is aged about 21 years, were known to each other for a period of two years. The FIR has been lodged on account of some misunderstanding and an agreement (Annexure P-2) has been executed between the parties wherein the prosecutrix has undertaken not to initiate any legal action against the petitioner. Furthermore, the sister-in-law of the petitioner has been found to be innocent. Even the counsel appearing for the complainant is not disputing the fact of execution of agreement.

Learned State counsel has opposed the bail application on the score that the FIR has been registered on the basis of the statement of the prosecutrix. Subsequently, her statement under Section 164 Cr.P.C. has been recorded wherein also, she has levelled categoric allegations of forcible sexual intercourse against the petitioner. The challan against co-

accused Sunny has been presented and the sister-in-law of the petitioner has been found to be innocent. The report of FSL is yet to be received. The agreement (Annexure P2) is of no significance as the offences are non-compoundable. Furthermore, entering into such an agreement is indicative of the fact that the petitioner is making an attempt to win over the witnesses and consequently, he is not entitled to concession of pre-arrest bail.

It may be mentioned here that in the FIR, there is specific and categoric allegation to the effect that the petitioner had taken the prosecutrix to a cattle room and had committed forcible sexual intercourse. Even in the statement under Section 164 Cr.P.C., she has re-asserted her allegations. The execution of agreement (Annexure P-2) is inconsequential and insignificant at this stage, particularly, because the allegations levelled against the petitioner pertain to commission of non-compoundable offence. The agreement (Annexure P-2) indicates that the FIR has been registered due to some misunderstanding between the parties which has now been cleared. However, the contents of the FIR and the statement under Section 164 Cr.P.C. indicate that there are categoric and specific allegations attributed against the petitioner by the prosecutrix with regard to commission of forcible sexual intercourse. It will be too early to accept that such allegations at both the stages could have been levelled on account of any misunderstanding between the parties. It appears that an attempt is being made by the petitioner to win over the witnesses and tamper with the evidence. The report of FSL has not yet been received. Furthermore, the petitioner has not sought to built up any such case to indicate that he was in consensual relationship with the prosecutrix.

Keeping in view the nature and gravity of allegations against the petitioner, the matter requires thorough probe and investigation and custodial interrogation of the petitioner appears to be essential for the said purpose. As such, no extraordinary circumstances are made out to extend the concession of pre-arrest bail to the petitioner.

Dismissed.

23.08.2022
smriti

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No