

CRM-40511-2022 in/and
CRM-M-26649-2022
Date of decision: 11.11.2022

VISHAL

...PETITIONER

VERSUS

STATE OF PUNJAB AND ANR.

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Sarbjit Singh, Advocate for the petitioner.

Ms. Ruchika Sabherwal, DAG, Punjab.

Mr. Gagandeep Singh, Advocate for respondent No.2.

VIVEK PURI, J. (ORAL)CRM-40511-2022

This is an application for addition of the offence under Section 201
IPC.

It has been stated that the offence under Section 201 IPC has been
added subsequent to the registration of the FIR.

Accordingly, the application is allowed and the offence under
Section 201 IPC be also incorporated in the head note and prayer clause of the
petition.

Registry to do the needful.

Disposed of.

Main case

On 16.06.2022, the following order was passed:-

*"The present petition has been filed under Section 438
Cr.PC for the grant of anticipatory bail to the petitioner
in a case registered vide FIR No.22 dated 27.05.2022
under Section 376 IPC registered at Police Station Women
Cell, District Amritsar.*

The Counsel for the petitioner contends that the first

purported occurrence took place in the year 2018 and thereafter in the year 2021. In fact the prosecutrix is of the age of more than 18 years, was in a relationship with the petitioner. He further contends their relationship turned sour because the prosecutrix was also involved with two other persons, namely, Rubal and Anmol and reference is made to the Whatsapp chats between the prosecutrix on the one hand (Annexure P-6) and Rubal on the other. It is also contended that the photographs were produced by the petitioner before the investigating officer and a perusal of the same would show that the said photographs/videos have been taken with the consent of the prosecutrix. Even otherwise if there is a promise to marry leading to sexual intercourse and subsequent to which the marriage could not fructify, that does not amount to rape as held in Pramod Suryabhan Pawar Vs. The State of Maharashtra & Anr. 2019(4) RCR (Criminal) 135 & Dr. Dhruvaram Murlidhar Sonar Vs. State of Maharashtra 2019(1) RCR Criminal 674.

Notice of motion for 16.08.2022.

Mr. Amitoj Singh Dhaliwal, DAG Punjab accepts notice on behalf of respondent-State of Punjab whereas Mr. Gagandeep Singh, Advocate has filed power of attorney on behalf of the respondent no.2-complainant.

Learned Counsel for the complainant submits that the offence against the petitioner is of serious nature and he does not deserve the concession of anticipatory bail.

In view of the discussion above, the petitioner is directed to appear before the SHO/Investigating Officer to join investigation and in the event of his arrest, he shall be released on bail on his furnishing bail bonds to the satisfaction of SHO/Investigating Agency, subject to the following conditions as envisaged under Section 438(2) Cr.PC:-

(i) that the petitioner shall make himself available for interrogation before the investigating officer as and when required;

(ii) that the petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case as to dissuade them from disclosing such facts to the court or to any police officer;

(iii) that the petitioner shall not leave the country without prior permission to the Court and shall surrender their passports, if any.

The learned State Counsel is directed to file a reply in this matter on or before the next date of hearing.”

interim directions, the petitioner has joined the investigation. Furthermore, the investigation of the case is complete and challan has also been presented in the Court.

On instructions from ASI Manu Sharma, learned State counsel has not disputed the aforesaid factual aspects and also submits that the petitioner has joined the investigation and his custodial interrogation is not required.

In view of the aforesaid submissions, the order dated 16.06.2022, granting interim bail to the petitioner is made absolute. Needless to say that this order shall also be construed to have been passed with regard to the offence under Section 201 IPC.

The petition is allowed.

11.11.2022
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(VIVEK PURI)
JUDGE

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