

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.208

CRM-M-27118-2022

Date of decision: 02.08.2022

Shivam Tiwari

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Himanshu Arora, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

Mr. Ajay Kumar Dahiya, Advocate
for the complainant.

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DEEPAK SIBAL, J. (Oral)

The present petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail in FIR No.72 dated 16.05.2022 registered under Sections 323, 376(2)(n), 406 and 506 IPC at Women Police Station Ballabgarh, Faridabad.

On 22.06.2022, this Court had passed the following order:-

“The instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 praying for grant of anticipatory bail to the petitioner in case FIR No. 72 dated 16.05.2022 registered under Sections 323, 376 (2)(n), 406 & 506 of the Indian Penal Code, 1860 (Annexure P-3) at Women Police Station, Ballabgarh, Faridabad.

Learned counsel for the petitioner *inter alia* contends that the FIR in question has been registered on a complaint furnished by one Anuradha Mohan wherein she has alleged that the petitioner who has working as Sports Teacher in Sri Ram Millennium School had entered into a physical relationship with her on a pretext of performing marriage and that the has thereafter performed marriage to some other person namely Kritika Vallabh on

22.01.2022. The present case is thus an outcome of a relationship turned sour. The prosecutrix has alleged of having consented to a physical relationship on account of an allurement/promise made by the petitioner to perform marriage with her.

Learned counsel further contends that the version of the prosecutrix is not a true genesis of the occurrence. As a matter of fact, the prosecutrix-complainant was working as a Student Counsellor in the same School and that she has nearly 12 years old daughter and is 09 years older than the petitioner. It is contended that the complainant was already married and has not obtained any divorce from her former marriage. She had, however, entered into a relationship with the petitioner out of her own freewill and without any assurance or promise advanced by the petitioner. The present complaint is an outcome of the fact that the relationship terminated on account of the solemnization of marriage of the petitioner with Kritika Vallabh in January, 2022. The registration of the instant case is basically an act of spite and vengeance.

Notice of motion.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G. Haryana appears and accepts notice on behalf of the respondent/State and submits that custodial interrogation of the petitioner is required in order to recover certain gift items that had been given by the prosecutrix during the subsistence of the relationship with the petitioner.

Learned counsel for the petitioner contends that he is ready and willing to hand over all the said items and that the very fact that the complainant had brought along those gift items shows that she was consensual to the said relationship amongst the parties. It is contended that levelling of allegations of rape is an abuse of the process of law and it is apparently not a situation where the petitioner could have allured the women who is nearly 09 years older to him and in a subsisting marriage and having 12 years old daughter on a pretext of entering into a matrimonial relationship with him.

List on 02.08.2022, for further consideration.

In the meantime, the petitioner is directed to join investigation as and when so required by the Investigating Agency. In the event of petitioner joining investigation, he shall be admitted to interim bail by the arresting officer/investigating officer on furnishing of bail bonds by him to the satisfaction of the arresting officer/investigating officer. The petitioner shall also abide by the conditions as specified under Section 438 (2) Cr.P.C.”

Learned State counsel submits that under the afore-quoted order passed by this Court, the petitioner has joined the investigation; co-operated with the investigating agency and that his custodial interrogation is not required by the State.

After considering the submissions made on behalf of the petitioner in the afore-quoted order and the statement made on behalf of the State, the interim order of this Court dated 22.06.2022, granting ad interim anticipatory bail to the petitioner is ordered to be made absolute.

August 02, 2022

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(DEEPAK SIBAL)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No