

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-27445-2022
Date of decision : 27.06.2022

Subhash Razak

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

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

Mr.Tanuj Sharma, AAG, Haryana.

Mr.Sandeep Siwach, Advocate for the complainant.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.254 dated 10.06.2022 registered under Sections 376(2)(n), 506 IPC at Police Station Model Town Panipat, District Panipat.

Learned counsel for the petitioner has submitted that the petitioner is innocent and has not committed any offence and the FIR had been registered on 10.06.2022, i.e. after a delay of more than 1 year and 7 months, inasmuch as the alleged incident is stated to be of 01.10.2020 and there is no explanation given with respect to the said delay. It is further submitted that the petitioner and the complainant were in a live-in-relationship regarding which an agreement dated 24.12.2020 was also entered into between the petitioner and the complainant, in which it had

relationship, then both the parties shall be bound to bring up the child. It is further submitted that the FIR has been registered by the complainant behind the petitioner, when the petitioner was not present in Panipat. Further reference has been made to the statement dated 20.06.2022 made by the complainant before the Additional Sessions Judge, Panipat in which she has specifically stated that she has no objection in case anticipatory bail is granted to the petitioner. It is stated that said fact has also been noticed in the impugned order dated 20.06.2022 in paragraph 7. It is further stated that, at any rate, the matter has been finally settled and the petitioner would be filing a petition under Section 482 Cr.P.C. for quashing of the FIR on the basis of compromise.

Notice of motion.

On advance notice, Mr. Tanuj Sharma, AAG, Haryana, appears and accepts notice on behalf of the respondent-State and has submitted that he is fully prepare to argue the matter and assist this Court. He has opposed the present petition for anticipatory bail and has submitted that in the present case, a perusal of the FIR would show that the complainant has levelled specific allegations as per which the offence of rape is made out.

Mr.Sandeep Siwach, Advocate, appears for the complainant and has admitted that the petitioner had entered into the agreement dated 24.12.2020, with respect to petitioner being in a live-in-relationship with the complainant and has further submitted that the complainant has no objection in case the present anticipatory bail is granted to the petitioner. It is also stated that the matter has finally been settled and a petition under Section 482 Cr.P.C. for quashing of the FIR would be filed by the petitioner regarding which the complainant is ready to give her statement in favour of

the petitioner.

This Court has heard learned counsel for the parties and has perused the paper book.

The FIR in the present case had been registered after a delay of 1 year and 7 months from the date of the alleged occurrence dated 15.10.2020 and without any explanation with respect to the said delay. A perusal of the agreement dated 24.12.2020 would show that there was a live-in-relationship agreement entered into between the petitioner and the complainant and the said agreement has not been disputed and in the said agreement it is also mentioned that in case any children are born from the said live-in-relationship, both the parties would be bound to bring up the said child. A perusal of the statement dated 20.06.2022 made by the complainant before the Additional Sessions Judge, Panipat also clearly shows that the complainant has specifically stated that she has no objection in case anticipatory bail is granted to the petitioner. Even before this Court, learned counsel for the complainant has stated that she has no objection in case the present petition for anticipatory bail is granted to the petitioner.

Keeping in view the above said facts and circumstances as well as the fact that the custodial interrogation of the petitioner is not required, the present petition for anticipatory bail is allowed and in the event of arrest, the petitioner shall be released on bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting / Investigating Officer. The petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) of Cr.P.C.

Nothing stated above shall be construed as an expression of

opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

June 27, 2022
Davinder Kumar

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