

203 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25201-2020 (O&M)

Date of Decision: 12.01.2022

GULSHAN SHARMA @ GULSHAN KUMAR ... PETITIONER
VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Amandeep Chhabra, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, AAG, Punjab.

Mr. Dhruv Khanna, Advocate, for respondent No.2.

VIVEK PURI, J.(ORAL)

The matter has been taken up through video-conferencing due
to COVID-19 pandemic.

On 10.09.2020, the following order was passed:-

*“The matter has been taken up for hearing through
video conferencing due to outbreak of COVID-19.*

*Learned counsel for the petitioner submits that the
petitioner and the prosecutrix came into contact through
facebook in the year 2017 and physical relations
between the parties, if any, were consensual. Initially,
the prosecutrix has projected herself an unmarried lady,
however, later on it was found that she is a divorcee. The
allegation against the petitioner is that he established
physical relations on the pretext of marriage. He further
submits that as per her version, the prosecutrix was
pregnant from the petitioner, but there is no such
medical report about her pregnancy.*

Notice of motion for 13.10.2020.

*Till next date of hearing, arrest of the petitioner
shall remain stayed.”*

Subsequently, on 18.08.2021, the following order was passed:-

“This is a petition that has been filed for grant of anticipatory bail to the petitioner in case FIR No.203 dated 18.07.2020 under Section 376 IPC registered at Police Station City Malout, District Sri Muktsar Sahib.

Learned counsel for the petitioner herein would contend that his custody is no longer required as the matter has been investigated and challan presented, which has not been accepted and re-investigation has been ordered.

Perusal of the interim orders passed by this Court would reflect that the petitioner herein had not been directed to join the investigation and only his arrest had been stayed.

In view of the fact, petitioner is directed to join the investigation within a period of one week and would return all the dowry/gift articles. On doing so, the petitioner be released on interim bail to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions incorporated under Section 438(2) Cr.P.C.

Adjourned to 11.01.2022.”

Learned counsel for the petitioner contends that at the earlier instance cancellation report was submitted which was not accepted and the matter was directed to be reinvestigated. He further submits that the petitioner has joined the investigation in pursuance of interim directions issued by this Court.

Learned State counsel, on instructions from ASI Shavinder Singh, has acknowledged the aforesaid factual aspect and stated that the petitioner is not required for custodial interrogation.

However, learned counsel appearing for the complainant has opposed the bail application on the score that there are serious allegations of commission of rape against the petitioner on the false pretext of solemnizing marriage.

Be that as it may, there is categorical assertion by the learned State counsel that the petitioner has joined the investigation and is not required for custodial interrogation. Moreover, in the instant case, cancellation report was submitted and, thereafter, the matter is being reinvestigated.

In these circumstances, the order dated 18.08.2021 vide which the petitioner was directed to be released on interim bail, is made absolute.

Accordingly, the petition is allowed.

12.01.2022
smriti

(VIVEK PURI)
JUDGE

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