

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

206

(Through Video Conferencing)

CRM-M-33152-2021

Date of decision: 04.02.2022

Om Parkash

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

Ms. Gaganpreet Kaur, AAG, Haryana
for the respondent-State.

MANJARI NEHRU KAUL, J. (ORAL)

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.12 dated 27.01.2021 under Sections 376(2)(n) and 376-D IPC, registered at Police Station Garhi, District Jind.

Learned counsel for the petitioner contends that an unbelievable story has been brought-forth by the prosecutrix that on 26th January, 2021, she had gone to a hospital at Narwana for getting the birth certificate of her younger son, stated to have been born on 20th September, 2007. Upon reaching the hospital, she was told that on account of it being a national holiday, she would not be able to get the birth certificate. As it had become late, she had no option but to check into a hotel where the co-accused i.e. Sandeep, who was the owner of the hotel forced himself upon her and committed rape.

Learned counsel submits that the prosecutrix alleged that

thereafter, he called two others including the petitioner, who too then raped her. Learned counsel for the petitioner further submits that the story put-forth by the prosecutrix cannot be digested, inasmuch as, 26th January, 2021 was a National holiday and it cannot thus be believed that she would not have known that no office would have been working on that day. He further submits that though in her statement recorded under Section 164 Cr.P.C. before the Magistrate, the prosecutrix did indeed level allegations against the petitioner, however, later on she gave an affidavit dated 05th August, 2021 (Annexure P-1), wherein, she stated that she was not in her senses and was under the influence of intoxicants which had been administered to her by the co-accused Sandeep, as a result of which, she levelled allegations of rape against the petitioner. Learned counsel further submits that in compliance of order dated 03.09.2021, the petitioner has joined investigation and cooperated with the investigating agency.

Learned State counsel, on instructions from Inspector Dharamveer, does not dispute the factum of the petitioner having joined investigation and cooperated with the investigating agency. She on further instructions submits that the petitioner is not required for further investigation much less for his custodial interrogation.

In view of the above, the petition is allowed and interim order dated 03.09.2021, is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C.

04.02.2022

Vinay

(MANJARI NEHRU KAUL)

JUDGE

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