

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(203)

CRM-M-34216-2021

Date of decision:- 07.03.2022

Arun Pratap Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Yogeshwar Dayal Kaushik, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

...

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 seeking pre-arrest bail in case FIR No.60 dated 29.04.2021, registered for offences under Sections 313, 323, 376, 376(2)(n) and 406 of the Indian Penal Code, 1860, at Women Police Station, Faridabad, District Faridabad (Haryana), Annexure P-1.

While issuing notice of motion and staying the arrest of the petitioner, this Court passed the following order on 23.08.2021:-

“Learned counsel for the petitioner would contend that the petitioner has been falsely implicated in the present case as would be evident from the fact that the matrimonial dispute that is going on between the complainant and her husband, has not yet culminated in a decree of divorce. It is argued that the offence complained of was that the petitioner herein had confined her in his

custody on 24.01.2020 and developed physical relations with her against her wishes and due to said physical relations, she became pregnant, which pregnancy was forcibly aborted. It is argued that she got registered an FIR No. 33 dated 27.02.2021 under Sections 376(2)(n), 323 and 506 IPC at Women Police Station, Sector 16 Faridabad, which was cancelled later on.

Notice of motion.

Ms. Deepshikha Chauhan, AAG, Haryana appearing through the medium of video conferencing accepts notice on behalf of the respondent-State. She, on instructions from ASI Suman, would argue that the earlier FIR was cancelled on account of a fraud played upon her by the petitioner herein which has also been noticed by the Additional Sessions Judge, Faridabad. It is also submitted that there are allegations in the said FIR regarding one Parveen Kumar, brother of the petitioner herein, committing the said offence and he had also withdrawn his anticipatory bail application. State counsel seeks time to file a detailed reply.

I have heard learned counsel for the parties and found that there were serious allegations in the earlier FIR No. 33 dated 27.02.2021 pertaining to an offence of rape and a fraud having been played upon the prosecutrix, which FIR got cancelled on account of furnishing false affidavit in Hindi, which the prosecutrix could not read and unknowingly signed it. Even the Additional Sessions Judge, Faridabad had dismissed the bail application on the ground that the custodial interrogation of the petitioner herein would be required for taking his blood samples for comparing with samples of DNA.

Faced with this, counsel for the petitioner would

contend that the petitioner is ready to give his DNA samples.

Consequently, the petitioner is directed to appear before the Investigating Officer and submit his blood samples for DNA analysis.

Adjourned to 24.09.2021.

The arrest of the petitioner is stayed limited till report of I.O. is furnished to this Court.”

Vide order dated 01.10.2021 passed by this Court, petitioner was directed to join the investigation.

Upon instructions received from L/ASI, Vidhu, State counsel submits that the petitioner has joined the investigation and he is no longer required for custodial interrogation.

During the course of hearing, reference has been made to the supplementary statement of the prosecutrix, Annexure R-1, recorded in Hindi, which has been appended with the reply filed by the State as well as the statement of the prosecutrix under Section 164, Cr.P.C., which is also recorded in Hindi.

In view of the above, petition is allowed. Order dated 01.10.2021 is made absolute, subject to the conditions laid down in Section 438 (2) of the Code of Criminal Procedure.

(SUVIR SEHGAL)
JUDGE

07.03.2022
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No