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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34101-2022

Date of Decision: 18.08.2022

BANIYA ALIAS JITENDER

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Chandan Deep Singh, Advocate for the petitioner.

Mr. Zorawar Singh Chauhan, DAG Haryana.

Mr. Balwinder Sangwan, Advocate for the complainant.

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VIVEK PURI, J. (ORAL)

Petitioner is seeking anticipatory bail in case bearing FIR No. 220 dated 09.07.2022 under Sections 328/376/506 IPC, registered at Police Station Sadar Ballabgarh, District Faridabad.

Reply by way of affidavit of Sukhbir Singh, Assistant Commissioner of Police, Tigaon, Faridabad has been placed on record.

Briefly, the FIR has been registered on the basis of the statement of the prosecutrix alleging that she is aged about 20 years and on account of matrimonial dispute, she is residing in her parental house. The petitioner was on visiting terms to her house for the purpose of noting down reading of gas meter. The prosecutrix became friendly with the petitioner. She was called at river Khera Dayalpur by the petitioner, forcibly made to drink alcohol and rape was committed upon her. When she came out of intoxication, the prosecutrix was dropped at her house by the petitioner and he extended threats to kill her and family members.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated. There are discrepancies in the statement of the prosecutrix on the basis whereof FIR was registered and statement under Section 164 Cr.P.C. In the statement under Section 164 Cr.P.C., she has introduced another person namely Ashok in the commission of crime.

The bail application has been resisted by the learned State counsel on the score that there are categoric allegations of commission of rape attributed against the petitioner by the prosecutrix after she was forcibly administered liquor. Furthermore, the custodial interrogation of the petitioner is necessary to verify with regard to the involvement of the co-accused, if any.

Learned counsel for the complainant has opposed the bail application and has argued that the first version of the case was unfolded in the statement which was recorded by the legal aid counsel wherein the prosecutrix has also attributed allegations against Ashok. Furthermore, subsequent to the recording of the statement, she was being threatened and has also submitted the necessary representations/applications to the concerned Police authorities.

Although, there are some discrepancies in the statements under Section 161 and 164 Cr.P.C. but both the statements are consistent to the effect that the prosecutrix was forcibly made to drink liquor and forcible sexual intercourse was committed upon her by the petitioner. Although, the petitioner was having friendly relations with the prosecutrix but the allegations are indicative of the fact that the petitioner has exploited the friendly relations and committed rape upon her. Both the statements are consistent as far as allegation of rape is concerned. The involvement of the other accused, if any, is to be probed during investigation. The matter

requires thorough probe and investigation and the custodial interrogation of the petitioner appears to be essential for the proper investigation of the case.

Keeping in view the aforesaid circumstances and the gravity of allegations, no exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner.

Dismissed.

18.08.2022

Janki

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No