

211 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37538-2022

Date of Decision: 08.12.2022

ASHU

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr.S.S.Matjithia, Advocate
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

Mr. Munish Behl, Advocate, for the complainant.

VIVEK PURI, J.(ORAL)

On 22.09.2022, the following order was passed:-

“Petitioner is seeking anticipatory bail in case bearing FIR No. 354 dated 17.07.2022 under Sections 376, 328, 354-A, 354-D and 506 IPC, registered at Police Station City Ballabhgarh, District Faridabad.

Learned counsel for the petitioner contends that the prosecutrix is aged about 19 years and was in consensual relationship with the petitioner. Both of them had visited various hotels and restaurants, details of the same have been reflected in para 3 of the petition, on various occasions. The allegations levelled in the FIR were with regard to the commission of offences under Section 354-A, 354-D and 506 IPC. The offence under Section 376 has been added subsequently after a lapse of period of about 20 days.

It has been further submitted that as per the contents of the status report, it was during the course of hearing of the application under Section 438 Cr.P.C in the Court of Sessions that an argument was raised by learned counsel for the prosecutrix, disclosing the commission of rape upon prosecutrix. Consequently, an application was moved by the prosecutrix on 07.08.2022 and the offences under Section 376 and 328 IPC had been added. Even in the first statement of the prosecutrix under Section 164 Cr.P.C recorded on 19.07.2022, there is no allegation with regard to commission of rape and administration of any intoxicant/stupefying material to her. The allegations with regard to offence under Sections 376 and 328 IPC have been reflected in a subsequent statement under Section 164 Cr.P.C. which has been recorded on 08.08.2022 after a period of about 3 weeks from the date of registration of the FIR. Even there is not a whisper in the status report pertaining to the contention which was raised on 24.08.2022 with regard to the visits of the petitioner and the prosecutrix in the hotels and restaurants on various occasions. Even the

signatures of the prosecutrix exist on the visitors register of the hotels where they had visited.

Learned State counsel and counsel for the complainant has opposed the bail application on the score that there was lurking fear in the mind of prosecutrix on account of threats extended to her by the petitioner which has resulted in the delay in disclosing the allegations with regard to commission of the offence under Sections 376 and 328 IPC.

It has not been disputed by learned State counsel and learned counsel for the complainant that threat was working in the mind of prosecutrix even when FIR was lodged. As such, it could have prevented her from raising allegations against the petitioner as recorded in FIR, even at the earlier instance.

Meanwhile, the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner contends that in pursuance of interim directions issued by this Court, the petitioner has joined the investigation.

Learned State counsel, on instructions from SI Kaptan Singh, has not disputed the aforesaid factual aspect and further submits that custodial interrogation of the petitioner is not required.

Keeping in view the entire circumstances, sufficient grounds are made out to extend the concession of pre-arrest bail to the petitioner. Accordingly, order dated 22.09.2022, vide which the petitioner has been granted interim bail, is made absolute.

Petition is allowed.

08.12.2022
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(VIVEK PURI)
JUDGE

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