

208 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46350-2021
Date of Decision: 28.03.2022

KULWINDER SINGH @ KAKA ... PETITIONER
V/S
STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. H.S.Thiara, Advocate for the petitioner.
Mr. A.A.Pathak, Addl. AG Punjab with
Assistant Commissioner of Police Ravinder Singh.
* * *

VIVEK PURI, J. (ORAL)

On 06.01.2022, following order was passed:

“ A fresh reply by way of affidavit of Ravinder Singh, Assistant Commissioner of Police, Sub-Division-V, Jalandhar Cantt. has been placed on record which indicates that the petitioner has not been declared proclaimed offender and the main challan has been submitted in the Court on 22.10.2021.

In the earlier short reply by way of affidavit of the same officer, it was mentioned that the petitioner has been declared proclaimed offender and, thereafter, the challan has been presented in the Court.

The petitioner is seeking anticipatory bail in case bearing FIR No. 131 dated 24.08.2021 under Sections 376 and 506 IPC and Section 4 of the POCSO Act, registered at Police Station Sadar Jalandhar.

Precisely, the allegations levelled against the petitioner are to the effect that he had committed forcible sexual intercourse upon the prosecutrix, aged about 16 years.

Learned counsel for the petitioner contends that the parents of the prosecutrix as well as prosecutrix have submitted the affidavit to the effect that no such incident has taken place and the case has been registered mistakenly.

Furthermore, the prosecutrix as well as her parents have submitted a representation dated 08.10.2021 (Annexure P-2) to the Commissioner of Police, Jalandhar.

Learned State counsel contends that the said representation dated 08.10.2021 (Annexure P-2) is still under consideration.

Mr. M.S.Virk, Advocate has joined the proceedings on behalf of the prosecutrix/complainant and has admitted the version as projected by learned counsel for the petitioner and further states that in due course he will submit the *vakalatnama* in the Registry.

Learned State counsel has pointed out that the petitioner is yet to join investigation. However, the reply has been placed on record (wherein there is a contradiction with regard to the allegations as to whether the petitioner was declared proclaimed offender or not), it has been specifically mentioned that challan has already been presented in the Court.

The matter is stated to be fixed in the trial Court for 28.01.2022.

Adjourned to 28.03.2022.

Meanwhile, it is directed that the petitioner shall surrender before the trial Court on or before 28.01.2022 and on his doing so, he shall be admitted on interim bail. This order is further subject to the condition that the petitioner shall comply with the provisions of Section 438 (2) Cr.P.C.

As contradictory version has been put forth in the reply filed by way of affidavit of Ravinder Singh, Assistant Commissioner of Police and to clarify with regard to the detail for which the petitioner is required for investigation, he is also directed to appear in the Court on the date fixed.”

Learned counsel for the petitioner contends that in pursuance of

the interim directions issued by this Court, the petitioner has surrendered

before the trial Court on 17.01.2022 and has been admitted on interim bail.

Sh. Ravinder Singh, Assistant Commissioner of Police is also present and on his instructions, learned State counsel contends that in pursuance of the interim directions, the petitioner has joined the investigation and his custodial interrogation is not required.

It has also been clarified that the petitioner has not yet been declared proclaimed offender and is not required for investigation as the challan has already been presented in the Court.

It has further been stated that the representation, Annexure P-2 was considered and has been disposed of on the score that challan has been presented in the Court.

Learned State counsel further submits that at the earlier instance the challan was presented by projecting that the petitioner was proclaimed offender but in order to rectify the earlier error, it is contemplated that a supplementary challan shall be presented in due course.

In these set of circumstances, sufficient exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner. The order dated 06.01.2022 is made absolute. However, the petitioner shall furnish fresh bail bonds in the trial Court within a period of 30 days.

The petition stands allowed.

28.03.2022

Janki

(VIVEK PURI)
JUDGE

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