

CRM-M-46361-2021

Date of decision: 31.03.2022

SADHU RAM AND ANR.

...PETITIONERS

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Sushil Jain, Advocate
for the petitioners.

Mr. Zorawar Singh Chauhan, DAG, Haryana.

Ms. Madhu Jangra, Advocate
for the complainant.

VIVEK PURI, J. (ORAL)

Present petition is under Section 438 Cr.P.C. for seeking anticipatory bail to the petitioners in case FIR No. 375 dated 05.10.2021, registered under Sections 109/306/376-D/506/511 IPC, at Police Station Gohana Sadar, District Sonapat.

On 09.11.2021, the following order was passed:-

“By way of present petition, the petitioners are seeking grant of anticipatory bail, in case FIR No. 375, dated 05.10.2021, under Sections 109, 306, 376-D, 506, 511 of IPC, registered at Police Station Gohana Sadar, District Sonapat (Annexure P-3).

Learned counsel for the petitioners inter alia has contended that the FIR in question has been lodged by the complainant as a counter blast to FIR No. 72, dated 28.09.2021, under Sections 354, 376, 506 of IPC and Sections 6, 10 of the POCSO Act, 2012, registered at P.S. Gohana, Sonipat (annexed as Annexure P-1), which was got registered against her husband – Om Parkash (since deceased) on the allegations of raping their relative, aged 4½ years. Learned counsel has submitted that the false implication of the

petitioners in the instant case finds credence from the fact that in her first statement made before the Delhi Police, soon after her husband committed suicide, on 04.10.21, she had not levelled any allegation of rape qua anyone and only stated that her husband i.e. Om Parkash was being threatened and humiliated by the complainant party in FIR No. 72, dated 28.09.2021 (Annexure P-1), on account of the rape accusations, as a result of which, he committed suicide.

Learned counsel while drawing the attention of this Court to the said statement, which finds reproduced in Para No.11 of the present petition, has submitted that no allegations of rape or even attempt to rape were made by the complainant against anyone, much less, the petitioners and had there been any grain of truth in the allegations which were subsequently levelled by the complainant while getting the FIR in question registered, that the petitioners along with other accused had sexually molested her on 23.09.2021 after putting her under threat, she would not have failed to make a mention of the same at that time.

It has also been submitted that the complainant has falsely tried to project that six months prior to the occurrence in question, there had been some dispute between the petitioners and her deceased husband with respect to the plying of the school van. Learned counsel has submitted that the petitioners are in fact agriculturists and they were not even in the business of plying any vehicle much less school vans. Hence, the added motive, which is being projected by the complainant for the commission of the offence in question, is on the face of it a fabrication and is at variance with the reason spelt behind the suicide of her husband, Om Parkash.

Learned counsel has further submitted that it was thus apparent that the complainant had chosen to come up with a concocted version later on for reasons, but obvious. He lastly submitted that a perusal of the allegations levelled in the FIR in question do not even obliquely attract the mischief of the ingredients of Section 306 IPC.

Learned counsel has further submitted that the accused, who are similarly situated have been

allowed bail by a Coordinate Bench of this Court vide order dated 28.10.2021annexed as Annexure P-4 with this petition.

Notice of motion for 14.01.2022.

On the asking of the Court, Ms. Gaganpreet Kaur, AAG, Haryana, accepts notice on behalf of the State.

Mr. Madhur Janga, Advocate, has put in appearance on behalf of the complainant and filed his power of attorney. Same is taken on record, subject to all just exceptions.

Let requisite copies of the complete paper book be supplied to the learned State counsel as well as counsel for the complainant during the course of the day.

Meanwhile, petitioners are directed to join investigation and appear before the investigating agency as and when called upon to do so. In the event of their arrest, they shall be admitted to interim bail on their furnishing bail bonds to the satisfaction of the Arresting/Investigating Officer. The petitioners shall abide by the terms and conditions as envisaged under Section 438(2) Cr.P.C.”

Learned counsel for the petitioners states that in pursuance of the interim directions, the petitioners have joined the investigation.

On instructions from ASI Santosh, learned State counsel has stated that the petitioners have joined the investigation and their custodial interrogation is not required.

In view of the aforesaid submissions, the order dated 09.11.2021, granting interim bail to the petitioners is made absolute.

However, the petitioners shall abide by the conditions stipulated under Section 438(2) Cr.P.C.

The petition stands disposed of.

31.03.2022
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(VIVEK PURI)
JUDGE