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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43820-2022

Date of Decision: September 22, 2022

Maan Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Lalit Kumar Yadav, Advocate
for the petitioner.

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RAJESH BHARDWAJ, J.(ORAL)

Instant petition has been filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case FIR No.126, dated 01.07.2022, under Sections 376 and 506 IPC registered at Police Station Jui Kalan, District Bhiwani.

It has been contended by learned counsel for the petitioner that the petitioner has been falsely implicated in this case. He has submitted that FIR in question was lodged by the prosecutrix alleging therein that she has matrimonial dispute with her husband and hence she is residing separately from her husband for the last three years. Thereafter on 16th or 17th June 2022 she got a call from phone No.9050401785. As she was disturbed by that call, she objected to the same. However, the person calling then told her that he could take her to some *Baba* for redressal of her grievances. On pretext of the same, he took her on his motorcycle on 20.06.2022 to some remote place where he committed illicit act with her. He threatened her with an axe and hence she could not resist and he committed rape upon her.

Counsel for the petitioner submits that the allegations made in the FIR are totally false and frivolous. He submits that the petitioner was not even present at the place of occurrence and the prosecutrix has implicated him in a clandestine manner. He has submitted that he has approached the Court of learned Additional Sessions Judge, Bhiwani, however, he has declined his prayer for anticipatory bail vide its order dated 16.09.2022 without appreciating the facts and circumstances of the case.

Notice of motion.

On the asking of the Court, Mr.B.S.Virk, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent-State and at the outset he submits that allegations made against the petitioner are serious in nature. He has submitted that the prosecutrix has given a specific mobile number and has alleged that the petitioner had called her from this number and hence for the purpose of investigation, recovery of the phone would also be essential.

Heard.

Evidently, investigation is at threshold. Though both the petitioner and the prosecutrix are of the age of majority, however, allegations against petitioner are that he committed rape upon the prosecutrix and threatened her to be killed by an axe. Mobile number has also been given by the prosecutrix which would be required for the purpose of further investigation. Custodial interrogation of the petitioner is required to unearth the truth and granting anticipatory bail to the petitioner would prejudice the ongoing investigation. In State (rep. by CBI) vs Anil Sharma (1997) 7 SCC 187, Hon'ble Supreme Court has held as under:

custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favorable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

Weighing the facts and circumstances of the present case on the anvil of settled law, this Court finds that the petitioner does not qualify for invoking the extraordinary jurisdiction in his favour. Hence, the present petition being devoid of any merit is, hereby, dismissed.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

September 22, 2022
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(**RAJESH BHARDWAJ**)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |