

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-53917-2021

Date of decision : 02.02.2022

Pooja Sharma @ Pooja @ Pooja Sharma Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Rishu Mahajan, Advocate
for the petitioner.

Mr.Karanbir Singh, AAG, Punjab.

Mr. Shivam Arora, Advocate
for the complainant.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.13 dated 22.11.2021 registered under Sections 420, 406, 506 IPC at Police Station NRI, District Police Jalandhar.

On 22.12.2021, this Court was pleased to pass the following order:-

“Learned counsel for the petitioner inter alia contends that the complainant wanted to marry the petitioner and had also told her that he was falsely involved in FIR No.924 of 2018 and for the said purpose, the petitioner gave all the support to the complainant and stood as surety and it is only subsequently when she actually met the lady who had been allegedly raped by

the complainant, the petitioner decided to part ways and in fact realised that the case of the prosecutrix was genuine and thus, rejected the proposal of marriage and after rejection of the said proposal, the complainant got the present false FIR registered. It is argued that substantial amount of money was paid to the lawyer for contesting the case of the said complainant. It is further argued that at any rate, the present dispute is a civil dispute and as far as the two other FIRs are concerned, the petitioner has filed the petition for quashing of the same on the basis of compromise.

Notice of motion.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of State of Punjab and seeks time to get instructions.

Adjourned to 02.02.2022.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to her furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner has submitted that in pursuance of the said order, the petitioner has already joined investigation.

Learned State counsel as well as learned counsel for the complainant have submitted that in pursuance of the said order, the petitioner has already joined the investigation.

Learned State counsel and learned counsel for the complainant have opposed the petition for anticipatory bail and have submitted that although the petitioner has joined the investigation but is not cooperating in

complainant has not been returned by the petitioner to the complainant. It is further submitted that in the present case, the complainant had separated from his wife in September 2017 and was going through the divorce proceedings and was interested in performing second marriage with the present petitioner and the present petitioner had informed the complainant about her previous marriage and had submitted that she had taken divorce which is now found to be false. Learned counsel for the complainant has further argued that the petitioner knew that the complainant had been illegally roped in the rape case and the petitioner told the complainant that she would engage a senior counsel on his behalf and accordingly the complainant paid a sum of Rs.50,000/- in September, 2019 and Rs.1 lac in October 2019 in the account of Yogesh Shandilva towards fee of the advocate and thereafter more money was taken by the petitioner to engage other counsels. Thereafter, the complainant also performed engagement ceremony with the petitioner at their house in Chandigarh and the petitioner then informed the complainant that her account had been sealed by the Income Tax Department and a penalty had been imposed upon her and thus, the complainant took a loan from HSBC in U.K. and transferred the amount in the account of Yogesh Shandilva. It is further argued that even subsequently, the petitioner kept demanding money from the complainant, which the complainant was paying and thus, the petitioner had committed fraud against the complainant. It is further submitted that in all, an amount of approximately Rs.26 lacs had been taken by the petitioner from the complainant.

This Court has heard learned counsel for the parties and has perused the paper book.

The version of the petitioner is to the effect that the complainant wanted to marry the petitioner and had informed her that he had been falsely involved in FIR no.924 of 2018 and for the said purpose, the petitioner had given all the support to the complainant and even stood as a surety for the complainant and it is only subsequently, when the complainant met the lady who had been allegedly raped by the complainant, that the petitioner found the case of the prosecutrix to be genuine and thus, decided to part ways with the complainant and it is only thereafter, that the complainant got the present false case registered against the petitioner by making false allegations against her. It is further the case of the petitioner that substantial amount of money had been paid to the lawyer for contesting the case of the complainant, while she believed his version to be true and was thus, managing his case for him.

From the above it is apparent that there are allegations and counter allegations and the entire case is based on documentary evidence and also on the basis of monetary transactions which have taken place between the parties which will have to be proved during the trial. The present dispute has civil tappings inasmuch as, even as per the version of the complainant, he had paid money to the petitioner on several dates and thus, the question as to whether he had paid the said money out of free will or was compelled to pay the same, would also be a matter of trial. The petitioner is a lady and she has already joined the investigation. The custodial interrogation of the petitioner in such circumstances would not be required. Even with respect to two more FIRs registered against the petitioner, it is submitted by learned counsel for the petitioner that petitions for quashing of the said FIRs, on the basis of compromise, have already

been filed. Learned counsel for the petitioner has relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported as **2012 (2) SCC 382** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

Keeping in view the above said facts and circumstances, the present petition for anticipatory bail is allowed and interim order dated 22.12.2021 is made absolute.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

February 02, 2022

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No