

CRM-M-2223-2022 (O & M)

::1::

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-2223-2022 (O & M)

Date of decision:15.03.2023

Manju Bala

..... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Surinder Singh Duhan, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Rajeev Anand, APP for U.T., Chandigarh.

Mr. Ravi Singh, Advocate, for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.285 dated 03.11.2021 under Sections 384 IPC (Section 180 IPC added later on) registered at Police Station City Pehowa Kurukshetra, District Kurukshetra.

2. The present FIR came to be registered at the instance of one Nirmala Devi wife of Virender Singh, who stated that on 18.09.2021, Manju Rathod wife of Ravi Kumar and 5-6 unknown persons entered her house at about 4.00 p.m. and started abusing her. The petitioner-Manju stated that she would implicate her (complainant's) husband in a rape case if Rs.20 lacs were not given to her. 5-6 persons were standing outside their house with their faces covered and weapons in their hands. The petitioner was having a knife and chilly powder in her bag. In fact, she (petitioner) had got

CRM-M-2223-2022 (O & M)

::2::

demanding Rs.20 lacs. On account of the conduct of the petitioner, her (complainant's) husband remained upset and mentally disturbed for days. When she (petitioner-accused) tried to take out chilly powder from her bag, she was caught. Instead of taking action against the petitioner, a case under Section 376 IPC had been registered against her (complainant's) husband.

Based on the aforementioned allegations, the instant FIR came to be registered.

3. The petitioner had sought the concession of anticipatory bail which has been dismissed by the Court of Additional Sessions Judge, Kurukshetra. Thereafter, she approached this Court and during the course of proceedings, while staying her arrest, an SIT was ordered to be constituted on 20.01.2022. As per the findings of the SIT constituted by the Senior Superintendent of Police, U.T., Chandigarh, it was found that the petitioner-Manju Bala wife of Ravi Kumar got involved with Virender Singh, husband of the present complainant. During the course of their romantic encounters, the petitioner recorded their conversation/intimate moments and started blackmailing Virender Singh. An amount of Rs.32 lacs had been extorted from Virender Singh by the petitioner and her husband-Ravi Kumar. The petitioner has purchased a house at Pinjore funded by Virender Singh. Similarly, a car had been purchased by the petitioner and her husband paid for by Virender Singh. Various online transactions were made from the account of Virender Singh into the account of Manju (petitioner) and her husband-Ravi Kumar. Subsequently, Manju Bala (petitioner) got pregnant and for the termination of the same, went to Government Hospital, Kalka. Manju Bala (petitioner) blamed her husband Ravi Kumar for giving her the medicine for the termination of her pregnancy. Upon the said information,

CRM-M-2223-2022 (O & M)

::3::

under Sections 3, 4, 5(2) (3) of the Medical Termination of Pregnancy Act, 1971 and Section 312 IPC registered at Police Station Kalka against Ravi Kumar and others including Virender Singh, husband of the present complainant.

On 19.09.2021, Manju Bala had gone to the house of Virender Singh and had shown videos/photographs to Nirmala Devi, wife of Virender Singh and a scuffle had taken place. Thereafter, she (Manju Bala) had gone to Police Station. Pehewa alleging rape upon which a 0 (zero) FIR was registered at Police Station Pehewa which was later on transferred to Police Station Zirakpur and came to be registered as FIR No.534 dated 17.10.2021 under Sections 376, 313, 323 and 506 IPC at Police Station Zirakpur. On the investigation being conducted, the filing of a cancellation report has been recommended in the said FIR.

Thereafter, based on the complaint of Nirmala Devi, wife of Virender Singh, the instant FIR came to be registered. The petitioner was called several times to join the proceedings, provide her voice samples and her mobile phone. However, she did not join the proceedings and neither provided her voice sample or her mobile phone.

She was, thereafter, summoned to appear before the SIT on 03.03.2022. She once again declined to produce her mobile phone and stated that she had thrown the same away.

Thus, the SIT came to the finding that the allegations levelled by Manju Bala (petitioner) against Virender Singh regarding rape, etc. were an after thought and only to cover her criminal acts of extorting money from Virender Singh on the pretext that she would expose him to his wife and his family.

CRM-M-2223-2022 (O & M)

::4::

As per the recommendation of the SIT, Section 120-B IPC has been added and Ravi Kumar, husband of the petitioner-Manju Bala has been arrayed as an accused.

4. The learned counsel for the petitioner contends that the instant FIR is a counter-blast to the FIR registered under Section 376 IPC at the instance of the petitioner against Virender Singh, husband of the present complainant. In fact, Virender Singh was maintaining illicit relations with the petitioner with an assurance that he would provide her a job. Since the petitioner had joined the investigation and had co-operated in the same, the petitioner was entitled to the grant of anticipatory bail.

5. The learned counsel for the U.T., Chandigarh, firstly, referred to the status report of the SIT placed on record vide an application dated 28.04.2022 to contend that the defence of the petitioner that the instant FIR had been registered as a counter-blast to her FIR No.534 dated 17.10.2021 under Sections 376, 313, 323 and 506 IPC at Police Station Zirakpur, has been found to be incorrect. In fact, the said FIR bearing No.534 dated 17.10.2021 stands cancelled. The investigation of the SIT clearly revealed that the petitioner was extorting money from Virender Singh, husband of the present complainant by threatening him to expose their relationship with each other to the family members of Virender Singh and on that basis, extorted a huge amount from Virender Singh. In addition, while referring to the reply dated 14.03.2022, he contends that the petitioner had failed to co-operate with the investigating agency. An amount of Rs.32 lacs was to be recovered from her and since the arrest of her husband was pending, her custodial interrogation was also required. In addition, he contends that the allegations against the petitioner were serious and on this ground alone, she

was not entitled to the concession of anticipatory bail.

CRM-M-2223-2022 (O & M)

::5::

6. The learned counsel for the complainant, on the other hand, has filed an application for cancellation of the interim bail granted to the petitioner. A perusal of the application (CRM-46538-2022) would reveal that one Rishi Arora, a colleague of Manju Bala (petitioner), has threatened the complainant's husband Virender Singh with dire consequences stating that he had contacts with various political persons, police officials, etc. and a settlement must be arrived at, failing which, the complainant and her husband would be done to death. Details of the call recordings between Rishi Arora and Virender Singh, the husband of the complainant have been provided to the investigating agency. He, therefore, submits that the petitioner was not entitled to the grant of anticipatory bail.

7. I have heard the learned counsel for the parties at considerable length.

8. The findings of the SIT duly constituted on the basis of an order passed by this Court are damaging. It has been clearly found that Manju Bala (petitioner) was involved in an illicit relationship with Virender Singh, husband of the present complainant and by threatening him to expose their relationship, a huge amount of Rs.32 lacs was extorted from Virender Singh by Manju and her husband-Ravi Kumar. Thereafter, even more money was sought to be extorted for which purpose she alongwith her co-accused entered the house of the complainant, leading to the registration of the instant FIR. As a counter-blast, an FIR No.534 dated 17.10.2021 came to be registered at Police Station Zirakpur under Sections 376, 313, 323 and 506 IPC at her instance levelling allegations against Virender Singh. The said FIR stands cancelled. Thus, it is apparent that the defence raised by the petitioner in the instant petition has been found to be false. Significantly, the

petitioner has also chosen not to co-operate with the investigating agency.

CRM-M-2223-2022 (O & M)

::6::

9. The Hon'ble Supreme Court in the case of “***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022(4) RCR (Criminal) 977***” held that merely because custodial interrogation was not required, by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. **In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be***

CRM-M-2223-2022 (O & M)

::7::

considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

10. In view of the serious nature of the allegations as also the need for custodial interrogation in the instant case, the petitioner does not deserve the concession of anticipatory bail. Therefore, I find no merit in the present petition. The same is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

March 15, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No