

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

211

Criminal Misc. No. M- 7152 of 2023

Date of decision :-05.07.2023

Kuldeep

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana
Assisted by ASI Manju Bala.

Mr. Amritpal Singh, Advocate for
Mr. Jagjit Singh Gill, Advocate
For the complainant.

NIDHI GUPTA J. (Oral)

The petitioner is seeking anticipatory bail in FIR No.1 dated 11.1.2023, under Sections 376(2)(n), 450 and 506 IPC, registered at Women Police Station, Sirsa, District Sirsa.

On 27.02.2023, co-ordinate Bench of this Court had passed the following order :-

“On 09.02.2023 while issuing notice of motion, the following order was passed:-

Prayer in this petition is for grant of pre-arrest bail to the petitioner in case FIR No. 1, dated 11.1.2023, under Sections 376(2)(n), 450 and 506 IPC registered at Police Station Women, Sirsa, District Sirsa.

Learned counsel for the petitioner contends that the allegations of rape against the petitioner are not believable on the face of it. The complainant is a married lady, aged about 28 years, having three children. The first incident is of 2.10.2022 wherein, she alleged that the petitioner entered into her house and committed rape, and later also he raped her two/three times. But no dates or time or place of the alleged offences have been mentioned. The FIR has been lodged after about hundred days of the alleged incident.

He further contends that, in fact, the petitioner and the complainant's husband are relatives and the fact has been concealed by the complainant. He also contends that on 2.10.2022, the date of the alleged incident, there was a marriage in the family and, therefore, the petitioner was in the village to attend it. The marriage card is annexed as Annexure P-4. It is also contended that no section of the Information Technology Act, 2000, has been invoked against him. Therefore, allegations about the petitioner having made a video of the incident are not sustainable.

Learned State counsel, on instructions from L/ASI Rajvinder, submits that the prosecutrix has supported the version in her statement recorded under Section 164 Cr.P.C. Besides, the investigation regarding commission of offences under the I.T. Act is going on. She needs to verify the facts regarding relation between the petitioner and the complainant's husband as well as the said marriage dated 2.10.2022.

Notice of motion.

Ms. Mahima Yashpal, DAG, Haryana, accepts notice on behalf of the State and Mr. Jagjit Gill, Advocate has put appearance on behalf of respondent no.2/complainant by filing memo of appearance.

Adjourned to 27.2.2023.

The petitioner is directed to hand-over his mobile phone to the Investigating Officer within two days.

In the meanwhile, petitioner's arrest shall remain stayed.

Learned State counsel, upon instructions from L/ASI Rajvinder, submits that pursuant to the aforesaid order, the petitioner has handed over his mobile phone to the Investigating Officer. Besides, the facts regarding relationship between the petitioner/husband and the complainant, as well as the marriage ceremony in the village on 02.10.2022 stand verified, which are correct.

In view thereof, the petitioner is directed to join the investigation as and when called upon to do so by the Investigating Officer, and in the event of arrest, he shall be released on interim bail to the satisfaction of Arresting Officer. The petitioner shall also abide by the conditions of Section 438 (2) Cr. P.C.

List on 05.07.2023.”

Learned State counsel, on instructions from ASI Manju Bala states that in terms of the order passed by co-ordinate Bench of this Court, reproduced above, the petitioner has joined the investigation and no further interrogation is required at this stage.

In view of the above, the order dated 27.02.2023 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join the investigation and cooperate with the investigating agency in case he is required for the same in future as well as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the investigating agency that the petitioner is required for the investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

July 05, 2023

Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No