

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M-11959-2023

DATE OF DECISION: *October 09, 2023*

Ankit Arora

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Amit Pruthi, Advocate,
for the petitioner.

Mr. Ranvir Singh Arya, Addl. AG, Haryana.

Mr. Vishwajeet, Advocate,
for respondent No.2.

Vivek Puri, J.

1. Petitioner is seeking anticipatory bail in case bearing FIR No. 499, dated 12.10.2022, under Section 376(2)(n)/406/506 of the Indian Penal Code, registered at Police Station Palam Vihar, Gurugram.

2. Briefly, the FIR has been registered on the allegations that the prosecutrix became acquainted with the petitioner on Instagram and started talking on phone. At the asking of the petitioner, the prosecutrix visited Trinity Corporate Suites Hotel, Sector 21, Gurugram where the petitioner made forcible relations with her. Thereafter, the petitioner kept on giving promise to solemnize marriage with

the prosecutrix and developed physical relations with her. He also took a sum of Rs. 9 lakhs from the prosecutrix and subsequently, refused to solemnize marriage with her.

3. On May 10, 2023, the following order was passed by the co-ordinate bench:-

“Learned counsel for the petitioner has filed the affidavit in compliance of the order dated 13.03.2023. The same is taken on record subject to just exceptions.

Learned counsel for the petitioner submits that, in fact, it is the money dispute between the parties and according to him there is an outstanding of around Rs.3,00,000/-, however, respondent no.2-complainant is claiming outstanding of Rs.9,00,000/-. He submits that without prejudice to the rights of the petitioner, petitioner is ready to deposit Rs. 1,50,000/- immediately and he should be granted the concession of anticipatory bail.

Without commenting upon the merits at this stage, let notice of motion be issued.

Mr. Brijesh Sharma, AAG, Haryana, accepts notice on behalf of respondent No.1-State. He vehemently opposes the anticipatory bail on the ground that the antecedents of the petitioner are not clean and, rather, there are three more FIRs against the petitioner.

In light of the above fact and in order to show is bond fide, the petitioner is directed to deposit an amount of Rs. 1,50,000/- with the Investigating Officer and further, the petitioner

is directed to join investigation on 17.05.2023 at 10.00 A.M. before the Investigating Officer and cooperate with the Investigating Agency, even thereafter.

In the event of arrest, the petitioner be released on interim bail subject to furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer and the petitioner shall abide by the conditions as envisaged under section 438(2) Cr.P.C.

Adjourned to 21.08.2023.

It is made clear that this order shall not be construed as any expression on the final outcome of the petition.”

4. Subsequently, the petitioner moved an application for clarification/modification of the order dated 10.05.2023 with regard to the deposit of the amount of Rs. 1,50,000/- with the Investigating Officer. Accordingly, on 02.06.2023, the following order was passed:-

“The present application is for clarification/modification of the order dated 10.05.2023 passed by this Hon’ble Court, whereby the petitioner had been directed to deposit a sum of Rs.1,50,000/- with the Investigating Officer.

By virtue of this application, he prays for specifying as to how this amount has to be deposited.

Accordingly, the petitioner is directed to make a FDR in his own name with an undertaking that the same shall not be

cancelled nor any encumbrance shall be created upon it and it shall be valid for at least one year.

Accordingly, the present application stands disposed of.”

5. It may be mentioned here that the amount of Rs. 1,50,000/- in the shape of FDR was allowed to be deposited on the basis of the undertaking given by the petitioner and it was further directed that there should not be any encumbrance upon the FDR.

6. The status report by way of affidavit of Naveen Sharma, HPS, Assistant Commissioner of Police, Palam Vihar, Gurugram, placed on record indicated that the petitioner has raised a loan to the tune of Rs. 1.35 lakh against the FDR which has been passed on to the Investigating Officer. The certificate issued by the State Bank of India in this regard has also been annexed with the report.

7. Thereafter, learned counsel for the petitioner sought adjournment to verify this aspect of the matter.

8. Learned counsel for the petitioner verified that a loan has been raised against the FDR and accordingly, he submits that fresh FDR can be submitted.

9. Learned State counsel has opposed the bail application on the score that the petitioner has played fraud by depositing the FDR which was already under

encumbrance despite specific undertaking in the Court and directions issued to the effect that no encumbrance shall be created upon the FDR. Moreover, the petitioner is involved in 3 other cases and as such, is not entitled to extraordinary relief of anticipatory bail.

10. It may be mentioned here that the petitioner had sought to put forth a case to the effect that there is a monetary dispute between the petitioner and the prosecutrix. On the basis of his own undertaking, the petitioner was directed to deposit the FDR to the tune of Rs. 1.50 lakh with the Investigating Officer. There was specific direction that no encumbrance shall be created upon the FDR. Significantly, the petitioner has raised a loan to the tune of Rs. 1,35,000/- against the FDR which has been deposited with the Investigating Officer. The relief of anticipatory bail is an extra ordinary relief and the conduct of the petitioner is also a significant aspect which is to be looked into and considered at the time of granting such relief. The petitioner has submitted a FDR against which the loan has been raised and such a deceptive conduct of the petitioner disentitles him from the extra ordinary relief of anticipatory bail.

11. Keeping in view the entire facts and circumstances in the instant case, no exceptional

circumstances are made out to extend the concession of pre-arrest bail to the petitioner.

12. The instant petition is dismissed, accordingly.

October 09, 2023

vk

(Vivek Puri)
Judge

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No