

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

208+1

CRM-M-12072-2023

Date of Decision: 28.04.2023

Arun Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

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

Ms. Dimple Jain, AAG, Haryana
(assisted by ASI Mukesh)

Mr. Jai Singh Yadav, Advocate for the complainant

JAGMOHAN BANSAL, J. (ORAL)

1. On 10.03.2023, the following order was passed:-

“Through instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioner is seeking anticipatory bail in FIR No. 13 dated 28.01.2023, under Sections 376(D), 343, 328 and 34 of IPC, registered at Police Station, Satnali, District Mahendergarh, Haryana.

The case of prosecution is that on 28.01.2023, the prosecutrix moved an application before police authorities averring that she got married with Manish on 21.01.2016. Manish and his sister left her at her parental home for 10-12 days. When she returned her matrimonial home on 11.04.2022, Manish asked her as to why she had come back. He said he would chop her legs and would kill her. She telephoned Arun, Advocate, who is son of aunt of Manish. Arun told her

to come to him as he would settled their matrimonial dispute. Arun took away her to his farm house where he committed rape upon her. Pardeep and Rajesh who were present there also committed rape upon her.

Learned counsel for the petitioner inter alia contends that marriage of the complainant with Manish came to be dissolved vide order dated 25.02.2022 passed by Family Court, Narnaul, thus, there was no question of leaving the complainant at her parental home by Manish and thereafter coming back of complainant to the house of Manish. The alleged incident took place on 11.04.2022 whereas FIR came to be registered on 28.01.2023 which shows that after dissolution of marriage, the complainant wants to implicate petitioner because he is close relative of her ex-husband.

Notice of motion.

On the asking of Court, Ms. Dimple Jain, AAG, Haryana who is present in court on advance notice, accepts notice on behalf of State-respondent.

Having considered contents of the FIR, role attributed to the petitioner, gravity of offence, sentence prescribed for commission of alleged offence, arguments put forth by the petitioner and law enunciated by Hon'ble Supreme Court in Thana Singh v. Central Bureau of Narcotics, (2013) 2 SCC 590, Arnab Manoranjan Goswami V. State of Maharashtra, (2021) 2 SCC 427, Satender Kumar Antil V. CBI (2022)10 SCC 51, Siddharam Satlingappa Mhetre V. State of Maharashtra & Ors., 2010 SCC OnLine SC 1375, Shri Gurbaksh Singh Sibbia V. State of Punjab

(1980) 2 Supreme Court Cases 565, this Court is of the prima facie opinion that petitioner deserves protection from arrest. Accordingly, at the first instance, the petitioner is directed to appear before investigating officer on 17.03.2023 and thereafter as directed by IO. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bonds to the satisfaction of investigating/arresting officer. The petitioner shall co-operate the investigating officer.

If the arresting officer does not permit the petitioner to join the investigation, the petitioner would appear before the learned Illaqa Magistrate who would then summon the arresting officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 19.04.2023.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and trial court shall proceed without being prejudiced by observations of this Court.”

2. Learned State counsel, on instructions from ASI Mukesh, submits that petitioner has joined investigation and no custodial interrogation is required.

3. In view of the above facts and circumstances, the petition is allowed and the interim bail granted to the petitioner vide order dated 10.03.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

4. If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

28.04.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>