

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-16804-2022 (O&M)

Date of decision : 04.09.2023

Abhishek Thakur @ Abi Thakur @ Abhishek Rathore ... Petitioner(s)

Versus

State of Punjab & Anr. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Munish Puri, advocate for the petitioner.

Mr. M.S. Tiwana, AAG Punjab for respondent No.1.

Mr. Sanjeev Kumar, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

1. This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.31 dated 09.03.2022 registered under Sections 376/406 of Indian Penal Code, 1860 (IPC) at Police Station Sujanpur, District Pathankot.

2. On 15.05.2023 the following order was passed :

“The present petition is for grant of anticipatory bail to the petitioner in case bearing FIR No.31 dated 09.03.2022, under Sections 376/406 of IPC, at Police Station Sujanpur, District Pathankot, which was lodged on suspicion.

Status report by way of affidavit of Mr. Rajinder Singh, PPS, Deputy Superintendent of Police, Sub Division Dharkalan, District Pathankot on behalf of respondent

No.I-State has been filed, which is taken on record.

Learned counsel for the petitioner submits that there is no dearth of truth in the entire story and moreover, the ingredients of Section 376 of IPC are not made out.

Learned counsel for the State, although opposes the bail, however, counsel for complainant submits that he has no objection if the bail is granted to the petitioner.

It is a strange case where serious allegations of rape have been leveled by the complainant and later on counsel for the complainant very conveniently states that he has no objection. The said fact pricks the conscience of this Court, as to either this FIR was only to blackmail the petitioner or for some extraneous considerations.

Without commenting upon the above, this Court refrains itself but issues a word of caution to the complainant not to abuse the process of law, for the simple reason that it was not the honour of the lady only, which is to be protected by the Constitution of India but the honour and integrity of a man as well.

Accordingly, the petitioner is directed to join investigation on 25.05.2023 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 04.09.2023.”

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3. Learned counsel for the petitioner would contend that pursuant to the said order the petitioner has joined investigation and has fully cooperated.

4. Learned counsel for the State, on instructions from ASI Sohan Lal, has stated that the petitioner has since joined investigation and has fully cooperated and that he is no longer required for further custodial interrogation as of now.

5. The learned counsel for respondent No.2 has once again stated that the respondent would have no objection to the grant of anticipatory bail.

6. In view of the above, the order dated 15.05.2023 is made absolute. The petitioner shall, however, join investigation as and when called. The petitioner shall also abide by all the terms and conditions as specified under Section 438(2) of the Code of Criminal Procedure, 1973.

7. Disposed off accordingly. Pending applications, if any, also stand disposed off.

04.09.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO