

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

(Sr. No. 206)

CRM-M No. 18088 of 2022

Date of decision : 23.01.2023

Munish Kumar @ Manu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present : Mr. Gursimran Singh Madaan, Advocate for the petitioner.
Mr. A.P.S. Tung, DAG, Punjab.

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DEEPAK SIBAL, J. (Oral)

Through the present petition filed under Section 438 Cr.P.C. the petitioner seeks anticipatory bail in FIR No.0010 dated 11.01.2022 registered under Section 376 IPC at Police Station Division No.6, Jalandhar.

Briefly stated, the case of the prosecution is that when the prosecutrix was waiting to board a bus at the Jalandhar Bus Stop to go to Chandigarh, the petitioner, who was already known to her, initially offered and then, on her acceptance, gave her a lift to Chandigarh. However, on the way he started to molest her but when such act on his part was responded to by the prosecutrix by slapping him, he retaliated by beating her on her head with an iron rod and then by raping her.

Learned counsel for the petitioner contends that the petitioner has been falsely embroiled in this case because the petitioner and the

prosecutrix were in a consensual relationship which had turned sour; there is 40 days delay in lodging of the FIR in question; there is no medical evidence to support the prosecution's case; the complainant is undergoing psychiatric treatment and therefore on that count as well the allegations made by her are doubtful; the complainant's brother has also stated before the police that the version given by the complainant be first verified before any action is taken against the petitioner; the allegations in the FIR are absolutely vague and contradictory as in the same no specific names are forthcoming; the complainant alleges beatings by the petitioner but there is no medical evidence to support such allegations and that the petitioner is also ready and willing to join and cooperate with the investigation.

Learned State counsel opposes the grant of anticipatory bail to the petitioner on the ground that the petitioner is alleged to have assaulted and raped the prosecutrix who is a qualified nurse in a hospital at Panchkula; the prosecutrix's medical report clearly shows an injury on her head; samples from the prosecutrix's person have been sent for forensic examination; the petitioner on being asked for blood samples for DNA analysis has refused to do so and that the petitioner is also involved in another case of fraud and rape.

Learned counsel for the parties have been heard and with their able assistance the record of the case has also been perused.

The prosecutrix who is a 25 year old divorcée is presently serving as a qualified nurse in a hospital at Panchkula. The petitioner who was known to the prosecutrix, while giving her a lift in his car from Jalandhar

to Chandigarh is alleged to have initially molested her and when such molestation was responded to with a slap, he is further alleged to have assaulted her with an iron rod and then raped her.

The allegations against the petitioner are serious; the medical evidence shown to this Court clearly reveals an injury on the prosecutrix's head; the weapon allegedly used by the petitioner to inflict the injury on the prosecutrix's head is still to be recovered; earlier, the petitioner was also prosecuted for having raped another lady and a perusal of the judgment of the trial court in that case shows that he compromised the matter with the prosecutrix therein on the basis whereof he earned an acquittal; thus, his antecedents are not found to be clean; he has also refused to cooperate with the investigation by refusing to give his blood samples for DNA analysis and that the investigation in the case is still underway.

In the light of the above, the petitioner does not deserve to be granted the concession of anticipatory bail.

Dismissed.

It is clarified that the above observations have been made only for the limited purpose of deciding the present anticipatory bail application and the same would not be construed to be an expression of opinion on the merits of the case.

23.01.2023

sunil yadav

**(DEEPAK SIBAL)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No