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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-17072-2023 (O&M)

Date of decision: July 14, 2023

Sakir

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Baljeet Beniwal, Advocate for petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (ORAL)

Petitioner, aged 34 years, seeks anticipatory bail in case FIR No.561 dated 19.10.2022, registered under Sections 341, 323, 365, 377, 506, 148 read with Section 149 of IPC, Section 25 of Arms Act, 1959 and Section 67-A of Information Technology Act, 2000, at Police Station Sadar Nuh, District Nuh (Mewat).

2. Per First Information Report (FIR), complainant Taslim moved complaint before Superintendent of Police, Nuh against petitioner and his co-accused as also 15-16 unknown persons on the allegations that complainant had performed love marriage with one Sumaiya, daughter of Hanif, against the wishes of her family. Due to fear to their lives and liberty, they took police protection from this Hon'ble Court vide order dated 23.12.2021. Co-accused Arshad Hussain and family members of Sumaiya extended continuous threats to eliminate Sumaiya and complainant.

2.1. On 02.07.2022 petitioner, who is brother of Sumaiya, Alim, cousin of Sumaiya, Hafiz, Shakrukh, Arshad. Wasim and Tarif along with 15-16 other unknown goons abducted complainant at pistol point and thrashed him with *Lathi*, *Danda*, sword and iron rod after taking him to village Tilakpuri in the State of Rajasthan. The accused also forcibly poured petrol on his buttocks and complainant was also forced to consume urine. Complainant was also sodomized by accused persons. Petitioner and his co-accused also videographed the said incident and uploaded the same on social website.

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They also threatened to eliminate the complainant for performing love marriage. The accused persons also planted a country made pistol by calling Rajasthan police and falsely implicated complainant in a case under Arms Act. After getting bail in that case under Arms Act, complainant lodged the present FIR.

3. Learned counsel for petitioner submits that present FIR was lodged after 26 days of the occurrence, since the alleged incident took place on 02.07.2022, whereas complaint was lodged on 28.07.2022. He further submits that complainant is a history sheeter who is involved in several other cases including POCSO Act and rape. Petitioner has been falsely implicated in the present FIR because he happens to be a brother of Sumaiya whereas he has nothing to do with the alleged offence.

3.1. Learned counsel for petitioner would further urge that in fact the shoe is in the other foot. It was the complainant, who had abducted the sister of petitioner and forcibly performed *Nikah* with her and also filed petition for protection of life and liberty. Now to save himself, the complainant has cooked up a cock and bull story to implicate petitioner and his family members.

4. Per contra, learned State counsel opposes the prayer made and submits that bottle of petrol and weapon, which were used in the commission of crime, have to be recovered. He would further state that custodial interrogation of petitioner is necessary to unearth the truth.

5. Heard.

6. Vide order dated 11.04.2023 passed by a co-ordinate Bench of this Court, petitioner was allowed to join investigation and was directed to be released on interim bail. He was also asked to cooperate with the investigation agency and also abide by the conditions as envisaged under Section 438(2) Cr.P.C.

7. On resumed hearing today, learned State counsel, on instructions from Inspector Dinesh Kumar, points out that petitioner had though appeared before the investigating officer, but has not cooperated to help the police to recover weapon which was being carried by the accused when the incident took place. Also points out that

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custodial interrogation of the petitioner is required. He also submits that there are seven more cases against the petitioner.

8. In the facts and circumstances of the case, I am of the view that the case is at the threshold and the investigation is underway and in case anticipatory bail is granted at this stage to petitioner, who is otherwise evading arrest and not cooperating in investigation, it would scuttle the investigation and will create further hurdles in arriving at the truth.

9. As an upshot, this is not a fit case for grant of anticipatory bail. Present petition is, accordingly, dismissed. Interim order granted by this Court vide order dated 11.04.2023 stands vacated.

10. It is made clear that any observations and/or submissions noted herein above shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.

11. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 14, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No