

299

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26209-2021

Date of Decision:- 21.03.2023

SUBHASH

...Petitioner

Vs.

STATE OF HARYANA

...Respondent

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present: Mr. Ravinder Malik (Ravi), Advocate for the petitioner.

Ms. Deepshikha Chauhan, Asst. A.G. Haryana.

AMARJOT BHATTI, J. (Oral)

The petitioner – Subhash has filed this petition under Section 438 Cr.P.C. for grant of anticipatory bail in FIR No. 119 dated 17.03.2021, under Sections 346, 376, 506, 365, 376-D (2)(n), 506 of IPC (Section 365, 376-D (2)(n), 506 IPC were added later on), registered at Police Station Pundri, District Kaithal.

As per the facts of the case, the complainant – Pawan Kumar gave his statement to the police that he is married to the prosecutrix. He is having two daughters and a son. His wife was mentally disturbed for the last about six months. On 16.03.2021, at about 01:30 P.M, when they went to sleep, his wife left the house without telling anybody and also took away jewellery, cash of Rs. 10,000/- and his two mobile phones. He tried to search her but could not locate her whereabouts. The matter was investigated. The victim was recovered. Her statement was recorded under Section 164 Cr.P.C. on 24.03.2021 where she levelled allegations of rape against Vikas and two other boys namely Subhash and Sonu by showing pistol to her. The offence under Section 365, 376-D(2)(n), 506 of IPC were

added. After completion of investigation, challan was presented against Vikas whereas, the petitioner Subhash has joined the investigation and his final report will be submitted, whereas, the other accused Sonu could not be arrested.

Learned counsel for the petitioner argued that he is falsely implicated in this case. He is named being friend of the main accused namely Vikas. He was involved in this case subsequently on the statement of the victim recorded under Section 164 Cr.P.C. It is pointed out that in fact, Pooja and Vikas were having relationship and they had also filed Criminal Writ Petition before Hon'ble High Court seeking protection of their life and liberty. Copy of Criminal Writ Petition No. 2752 of 2021 titled "Pooja and another versus State of Haryana and others" is Annexure P-3 and the protection order dated 19.03.2021 is Annexure P-4. The petitioner has not committed any offence. He has already joined the investigation. It is prayed that his anticipatory bail application may be allowed.

The bail application is opposed by learned counsel representing the State. It is argued that there are specific serious allegations against the present petitioner. He along with other co-accused committed rape with the victim. To support this fact, he is relying upon the disclosure statement of accused Vikas, Annexure R-1. The allegations are specific and serious in nature. Therefore, considering the gravity of offence, his anticipatory bail application may be declined.

I have considered the arguments and have gone through the record carefully. As per file, the arrest of the petitioner was stayed vide order dated 09.07.2021 and he was granted *ad interim* bail vide order dated 22.11.2022. As per the status report, the present petitioner has already joined the investigation and qua him the challan report will be submitted.

As per record, there is a writ petition filed by Pooja and Vikas Kumar seeking protection of their life and liberty against State of Haryana and others, in which the present complainant Pawan Kumar was arrayed as respondent No. 4, which is Annexure P-3. The protection order passed in writ petition is dated 19.03.2021, which is Annexure P-4. The name of the present petitioner cropped up subsequently, who has already joined the investigation. He is not required for any other purpose. Therefore, without expressing my mind on the merits of the case, the *ad interim* bail already granted in favour of the petitioner Subhash vide order dated 22.11.2022 stands confirmed, subject to the conditions as enshrined under Section 438(2) Cr.P.C.

The petition is, accordingly, accepted.

21.03.2023

lalit

(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No