

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

206

CRM-M No.27272 of 2022

Date of Decision : 09.10.2023

Balwinder Kumar @ Bau

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rishu Mahajan, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab.

ALKA SARIN, J. (Oral)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.15 dated 09.03.2021 under Sections 376-D, 376 and 120-B of the Indian Penal Code, 1860 registered at Police Station Bhindi Saidan, District Amritsar.

2. On 07.07.2022 the following order was passed :

“Learned counsel for the petitioner inter-alia contends that the petitioner has been falsely implicated in this case as he and the complainant were in a consensual relationship which later turned sour; there is no other criminal case pending against the petitioner; the petitioner and the complainant both adults were in a consensual relationship and therefore the sections for which the petitioner is sought to be prosecuted are not attracted in the present petition; the prosecutrix has refused to get herself medically examined showing falsity

in her claims; the story of the prosecution is highly improbable that the prosecutrix was pushed into a room by co-accused Priya to facilitate the petitioner to commit rape upon her and then Priya herself would call the petitioner's wife so that she could catch the petitioner and the prosecutrix red handed; there is no injury on the prosecutrix showing further falsity in her claims; no recovery is required to be made from the petitioner and that the petitioner is also ready and willing to join and cooperate with the investigation.

Notice of motion.

Ms.Gunkirat Kaur, Assistant Advocate General, Punjab, accepts notice on behalf of the respondent-State.

For arguments, adjourned to 10.10.2022.

Till the adjourned date the petitioner's arrest is stayed.

Before the adjourned date in response to the afore submissions as also the averments made in the petition the State shall file a status report after consideration of which further orders shall be passed in the instant petition.”

3. Subsequently, vide order dated 22.05.2023, the petitioner was directed to join the investigation. The order dated 22.05.2023 reads as under:

“Learned State counsel submits that as per the status report dated 16.05.2023, the fact of the prosecutrix refusing her medical examination is correct, as also that no injury was there on her person.

Adjourned to 09.10.2023.

In the meanwhile, the petitioner shall join the investigation as and when called upon to do so by the Investigating Officer, and in the event of arrest, he shall be released on interim bail to the satisfaction of

Arresting Officer. The petitioner shall also abide by the conditions of Section 438 (2) Cr.P.C.”

4. Today learned counsel for the petitioner states that the petitioner has since joined the investigation and fully cooperated.

5. Learned counsel for the State on instructions from ASI Ranjit Singh has stated that the petitioner has since joined investigation and fully cooperated and that he is no longer required for further custodial interrogation as of now. He has also submitted that the prosecutrix had refused to get herself medically examined.

6. In view of the above, the order dated 22.05.2023 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.

(ALKA SARIN)
JUDGE

09.10.2023
jk

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