

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

210

CRM-M-29511-2022

Date of Decision: 14.02.2023

Usman and Another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Jitender Dhanda, Advocate for the petitioners

Ms. Dimple Jain, AAG, Haryana
(assisted by SI Hemraj)

Mr. Mazlish Khan, Advocate for the complainant

JAGMOHAN BANSAL, J. (ORAL)

On 23.08.2022, the following order was passed:-

“The petitioners are seeking anticipatory bail in case bearing FIR No.276 dated 01.07.2022 under Sections 328/450/376-D/506 IPC registered at Police Station Punhana, District Nuh.

Briefly, as per the allegations levelled in the FIR, on 23.06.2022 at about 10:00 P.M., the prosecutrix was administered some stupefying material and she felt dizziness. The petitioner alongwith coaccused, namely, Kadir, molested her, took her objectionable videos and photographs in the phone, removed her clothes, threatened her and committed rape upon her turn by turn.

Learned counsel for the petitioners contend that Kadir, coaccused, is the son-in-law and brother-in-law of petitioners No.1 and 2, respectively. Petitioner No.2 is stated to be nephew of petitioner No.1. The daughter of petitioner No.1 is married to Kadir. The prosecutrix was having extra-marital relationship with Kadir which is indicative from the photograph contained at

Annexure P-1. The petitioners came to know about the relationship and consequently, the prosecutrix in order to exculpate herself has falsely implicated the petitioners alongwith Kadir. Moreover, the alleged occurrence took place on 23.06.2022. The wife of petitioner No.1 had passed away a day earlier on 22.06.2022. It is improbable and unnatural that the petitioners would have indulged in such a wrongful activity on the following day on the death of wife of petitioner No.1. Furthermore, it is unnatural that such an act could have been committed in connivance with near relatives.

Learned State counsel, on the instructions from ASI Pushpa, submits that although in the FIR, there are specific and categoric allegations of commission of rape levelled against all the accused, but in the statement under Section 164 Cr.P.C., the prosecutrix had levelled allegation against petitioner No.1 to the effect that he caught hold her and the other two accused had committed rape upon her. However, this aspect has not been clearly specified in the reply

Adjourned to 03.11.2022.

In the meanwhile, the petitioners are directed to join investigation and in the event of their arrest, they shall be released on interim bail to the satisfaction of the Investigating Officer/Arresting Officer subject to the conditions as envisaged under Section 438 (2) of Code of Criminal Procedure.”

Learned State counsel, on instructions from SI Hemraj, submits that petitioners have already joined investigation and no custodial interrogation is required.

In view of the above, the petition is allowed and the interim bail granted to the petitioners vide order dated 23.08.2022 is made

absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C

If the petitioners or their family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

14.02.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>