

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

204

CRM-M- 33384-2020

Date of decision : 03.05.2023

Lavish Kumar

..... Petitioner

V/S

State of Haryana

..... Respondent

CORAM : HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Ms. Jasneet Mehra, Advocate for the petitioner.

Ms. Ambika Sood, Additional A.G. Haryana.

AMARJOT BHATTI J. (ORAL)

The petitioner- Lavish Kumar has filed the instant petition under Section 438 Cr.P.C. seeking anticipatory bail in FIR No. 447 dated 16.08.2020 under Section 8 of POCSO Act (Section 365 of IPC and Section 8 of POCSO Act were added later on), registered at Police Station Pehowa, District Kurukshetra.

The facts of the case are that the prosecutrix gave her statement to the Police that she is 16 years old studying in 10 + 2 Class. On 16.08.2020 at about 4:00 p.m., she was going to the shop when Lavish Kumar standing on the way stopped her. He made her sit in his vehicle and took her in a deserted poultry farm. He further took her in a room and started teasing her and touched her private parts, when she raised alarm, he pressed her mouth and tried to commit rape. She pushed him aside and ran away from the place. With these allegations, the present FIR has been registered.

Learned counsel for the petitioner denied the allegations. It is argued that all the allegations are false. In fact the prosecutrix used to talk to him he placed on record the extracts of audio clipping regarding their conversation a CD

was placed on record as (Annexure P-3) and (Annexure-P-8). The allegations of physical assault are false. He has already joined the investigation and he is still ready to do so. Therefore, the ad-interim bail already granted in his favour may be confirmed.

On the other hand, the bail application is opposed by learned State counsel. The detailed status report along with the FSL report dated 10.03.2021 is also placed on record. As per the status report, the questioned voice sample marked Q1 (A) and Q1 (B) were compared with the specimen voice samples of the prosecutrix and Lavish Kumar mark S1 (A) and S2 (B) by using multi speech software and as per the report the questioned voice samples and specimen voice samples are of one and the same person. In the status report it is further mentioned that the petitioner has joined the investigation many a times, as per the orders of the this court. But it is claimed that he did not cooperate as he did not demarcated the place of incident nor the car used in the occurrence was recovered.

At this stage, learned counsel for the petitioner pointed out that the car which the prosecution is claiming never belonged to the petitioner. Therefore, he cannot produce the same.

I have considered the arguments and have gone through the record carefully. From the status report, it is clear that the present petitioner has joined the investigation as and when required. So far as the place of occurrence is concerned that can be demarcated at the instance of prosecutrix. Even if the said car is to be recovered, the investigating officer can do so, during the course of investigation. The report of FSL is also received regarding the voice conversation between the petitioner and the prosecutrix. Therefore, the petitioner is not required for any other purpose. He is still ready to abide by the terms of the bail

order. Considering this fact, the ad-interim bail already granted vide order dated 15.03.2021 stands confirmed, subject to the conditions enshrined under Section 438(2) Cr.P.C.

The petition is accordingly accepted.

(AMARJOT BHATTI)
JUDGE

03.05.2023.
Sunil Devi

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No