

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

**CRM-M No.33703 of 2023
Date of Decision: 20.09.2023**

Sandeep @ Monu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Aakash Juneja, Advocate,
for the petitioner.

Mr. Amrik Singh Narwal, DAG, Haryana,
for the respondent-State.

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MEENAKSHI I. MEHTA, J.

By way of the instant petition, the petitioner has sought the relief of anticipatory bail in the criminal case arisen out of FIR No. 71 dated 02.05.2023 registered at Police Station Women, Rohtak, District Rohtak under Sections 201, 323, 354, 376 & 506 read with Section 34 IPC.

2. Shorn and short of unnecessary details, the allegations levelled by the complainant-prosecutrix (here-in-after to be referred as 'P') in the subject FIR, are that she and the petitioner had become friends through '*Instagram*'. On 11.11.2022, the petitioner had called her at a hotel on the pretext that he wanted to talk to her over some matter but on her reaching there, he raped her and when she started crying, he promised to marry her and then, she insisted to reside with him but he dilly-dallied for the same

and thereafter, he started sending the messages on her phone, threatening to kill her and her son and later-on, she came to know that he was already married and he had also refused to marry her.

3. Reply has already been filed on behalf of the respondent-State, by way of the affidavit of Deputy Superintendent of Police, CAW Rohtak and it is worth-while to mention here that in Para No.05 in the Preliminary Submissions therein, it has categorically been deposed that the offence under Section 328 IPC, has also been invoked in the present case.

4. I have heard learned counsel for the petitioner as well as learned State counsel in this petition and have perused the file carefully.

5. Learned counsel for the petitioner contends that 'P' is a mature lady and she was having consensual physical relations with the petitioner but now, their relationship has turned sour and therefore, she has got him (petitioner) falsely implicated in the criminal case under reference and in these circumstances, the petitioner deserves the relief, as prayed for in the instant petition. To buttress his contentions, he has placed reliance upon the observations made by Hon'ble Supreme Court on 01.12.2022 in **Special leave to Appeal (Crl.) Nos.6629-6630/2018** titled as **Mahendra Parte vs. The State of Madhya Pradesh & Anr.**

6. Per-contra, learned State counsel argues that 'P' has levelled specific allegations against the petitioner qua his having sexually assaulted her and also regarding his having falsely promised to perform marriage with her and keeping in view the nature of the offence as committed by him (petitioner), the present petition be dismissed.

7. The contentions qua 'P' having consensual physical relations with the petitioner and regarding her having got him falsely implicated in the instant case, can and shall be looked into and adjudicated upon by the trial Court at the appropriate stage, after appreciating and evaluating the evidence that may be led on the record during the course of the trial and the same cannot be decided at the stage of dealing with this petition. Rather, at the moment, the fact remains that 'P' has levelled specific allegations in the FIR and also in her statement, recorded under Section 164 Cr.P.C (annexed with the Reply) that the petitioner had committed rape upon her and had made the false promise to marry her and subsequently, she came to know that he was already married and he also started threatening her with dire consequences. To add to it, in Para No.07 of the Preliminary Submissions in the Reply, it has, further, been mentioned that the custodial interrogation of the petitioner is required to recover the mobile-phone, as used by him to contact 'P' and to send the messages to her.

8. The observations made by the Apex Court in **Mahendra Parte (supra)**, are of no help to the petitioner because the facts and circumstances of the present case are distinguishable from those of the noted above as in the afore-cited case, it was observed that the FIR indicated that the parties had been in physical relationship whereas in the instant case, as discussed earlier, 'P' has levelled categoric allegations against the petitioner qua his having raped her after calling her at a hotel on the pretext that he wanted to talk to her over some matter and Hon'ble Supreme Court has held in **Megh Singh vs. State of Punjab, Appeal (Crl.) 452 of 2003** that "*circumstantial*

flexibility, one additional or different fact may make a world of difference between conclusions in two cases or between two accused in the same case. Each case depends on its own facts and a close similarity between one case and another is not enough because a single significant detail may alter the entire aspect. It is more pronounced in criminal cases where the backbone of adjudication is fact based.”

9. Keeping in view the afore-discussed facts and circumstances as well as the gravity of the crime as alleged to have been committed by the petitioner, this Court is of the considered opinion that he (petitioner) does not deserve the concession of anticipatory/pre-arrest bail. Resultantly, the petition in hand, being *sans* any merit, stands dismissed.

20.09.2023

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(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>