

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

CRM-M-36929-2022

Date of Decision: 19.10.2023

RAMESH CHAUHAN

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Sahil Gupta, Advocate for the petitioner.
Mr. Ramender Singh Chauhan, AAG Haryana.
Mr. Rao Ajender Singh, Advocate for the complainant.

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VIVEK PURI, J. (ORAL)

1. Petitioner is seeking anticipatory bail in case bearing FIR No. 281 dated 06.06.2022 under Sections 354D, 376(2)(n), 506 IPC (Sections 420, 468, 471 IPC added later on) registered at Police Station Model Town, District Rewari.

2. On 23.08.2022, following order was passed by the Co-ordinate Bench:

“Learned counsel for the petitioner inter-alia contends that the petitioner, who is a 55 years old man, has been falsely implicated in this case at the behest of the prosecutrix who is a mature 43 years old widow; the petitioner and the prosecutrix were in a relationship for the last about 10 years and such relationship being a consensual relationship between two adults would not attract the applicability of Section 376(2)(n) IPC; the allegations against the petitioner that he has committed rape on the prosecutrix for about 10 years on the pretext of marriage and then by threatening her to make viral her obscene photographs are absolutely false and motivated as also to extract money from the petitioner; on an earlier occasion FIR No.06 dated 11.01.2021 was got registered by the prosecutrix against the petitioner in which she had alleged that for about 10 years the petitioner had raped her on the pretext of marriage; FIR No.06 dated 11.01.2021 was false but on being blackmailed by the prosecutrix the petitioner paid to the prosecutrix Rs.07 lakhs as also got transferred a house in Rewari in her name; after receipt of the afore amount and the transfer of the house in question the prosecutrix agreed not to pursue FIR No.06 dated 11.01.2021 and on the basis of such agreement of hers the police has prepared report seeking cancellation of such FIR; such

settlement was based on calls received by the petitioner from the relatives of the prosecutrix, a transcript of which has been appended as Annexure P-4 and Annexure P-5; the petitioner has been making monthly payments to the prosecutrix between Rs.15,000/- and Rs.25,000/-; the allegations in this FIR are that the petitioner raped the prosecutrix on 19.03.2022 but the falsity in such allegations is clear from the fact that on 22.03.2022 the prosecutrix has received from the petitioner an amount of Rs.10,000/- in her account; there is an unexplained delay of several years in lodging of the FIR in question; the story set up by the prosecutrix that the petitioner has raped her by threatening her to make viral her naked photographs are false as no such photograph has ever seen the light of the day and that the petitioner is also ready and willing to join and cooperate with the investigation.

Notice of motion.

Ms.Sheenu Sura, Deputy Advocate General, Haryana, accepts notice on behalf of the respondent-State and Mr.Rao Ajender Singh, Advocate puts in appearance on behalf of the complainant.

For arguments, adjourned to 08.12.2022.

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

However, the petitioner is directed to hand over his mobile phone(s) and other electronic equipment(s) that he may have in his possession which is/are relevant for the purpose of the investigation to the investigating officer. He shall also make available his bank records and other information as may be sought for by the investigating officer.

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, on 28.03.2023, it was submitted by the learned State counsel that the report of FSL with respect to the mobile phone of the petitioner has been received and no incriminating material has been recovered from his mobile phone. It was further submitted that the petitioner may be directed to join the investigation with respect to forging of the documents.

4. Learned counsel for the petitioner contends that in pursuance of the interim directions, the petitioner has joined the investigation. The allegation is with regard to forgery of the Aadhar Card in the name of the wife of the petitioner depicting the photograph of the prosecutrix. In fact,

such an allegation is an afterthought levelled by the prosecutrix during the

course of investigation and the same is false one. No such forged Aadhar Card has been prepared by him.

5. Learned State counsel, on instructions from PSI Sangeeta, has submitted that in pursuance of the interim directions, the petitioner has joined the investigation but he has not cooperated with regard to the allegations pertaining to the forgery of the Aadhar Card.

6. Learned counsel for the complainant has also opposed the bail application on the score that there are serious allegations levelled against the petitioner with regard to commission of rape and forgery of the Aadhar Card.

7. Be that as it may, the controversy as to whether the petitioner has forged any Aadhar Card depicting the photograph of the prosecutrix will be a debatable and moot point during the course of trial. In pursuance of the order dated 23.08.2022 passed by the Co-ordinate Bench of this Court, the petitioner has joined the investigation. Even, nothing incriminating has been recovered from the mobile phone of the petitioner.

8. In these set of circumstances, the petition is allowed and the interim bail granted by this Court vide order dated 23.08.2022 is made absolute, subject to the condition that the petitioner shall comply with the conditions as specified under Section 438(2) of the Code of Criminal Procedure.

19.10.2023

Janki

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No