

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**206****CRM-M No.35249 of 2023****Date of Decision : 17.11.2023**

Amit Chaudhary

....Petitioner

VERSUS

State of Punjab and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sandeep Gahlawat, Advocate for the petitioner.

Mr. M.S. Tiwana, AAG Punjab for respondent No.1.

Mr. S.S. Sandhu, Advocate for

Mr. Amandeep Kaur, Advocate for respondent No.2.

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.197 dated 26.06.2023 under Sections 376 and 506 of the Indian Penal Code, 1860 registered at Police Station Dera Bassi, District SAS Nagar (Mohali).

2. On 24.07.2023 the following order was passed :

“The petitioner seeks grant of anticipatory bail in case bearing FIR No.197 dated 26.06.2023 (Annexure P-1) registered under Sections 376 and 506 IPC at Police Station Dera Bassi, District SAS Nagar (Mohali).

Briefly, the complainant/prosecutrix had lodged the aforesaid FIR on the allegations that she is a

married lady and was running a beauty parlour. The petitioner was a gym trainer and used to train the complainant/prosecutrix. They both became friends and with the passage of time, the petitioner started alluring and instigating her to elope with him and start a new life with him. The petitioner trapped the prosecutrix in his false promises and committed rape upon her against her wishes.

Learned counsel, inter alia, contends that the petitioner has falsely been implicated in the instant case as the present FIR is the outcome of strained relations of the prosecutrix with her husband. Perusal of the FIR clearly shows that the story has been concocted and there is no truth in the same, which clearly gives the smell that the same has not been registered at the behest of the complainant/prosecutrix, rather the same has been registered at the instance of husband of the prosecutrix who is inimical towards the petitioner for the reasons best known to him. Learned counsel further contends that the husband of the petitioner had filed a petition bearing No.CRWP-6107-2023, before this Court alleging therein that the prosecutrix has illegally been detained by the petitioner and his mother, Salochna Devi, but the same was dismissed vide order dated 17.07.2023 (Annexure P-3) as the prosecutrix herself had made a statement that she neither wants to

go with her husband nor with her parents and wants to live independently. Learned counsel also contends that the prosecutrix in her statement under Section 164 Cr.P.C. has categorically stated that 'no rape has been committed upon her', therefore, no offence under Section 376 IPC is made out against the petitioner. Nothing has to be recovered from the petitioner, therefore, his custodial interrogation is not required. The petitioner is ready to join the investigation as and when required and shall abide by all the terms and conditions imposed upon him.

Notice of motion.

On the asking of Court, Ms. Kanica Sachdeva, AAG, Punjab, accepts notice on behalf of the respondent-State, whereas, Ms. Amandeep Kaur, has put in appearance on behalf of the complainant and filed his Vakalatnama in Court today, which is taken on record.

Learned counsel for the petitioner has categorically submitted that no rape has been committed upon the prosecutrix by the petitioner and that the FIR was lodged against the petitioner upon asking of her husband.

On instructions, learned counsel for the State also submits that the prosecutrix in her statement recorded under Section 164 Cr.P.C. had reiterated that no rape has been committed upon her by the petitioner.

Learned counsel for the State as well as learned counsel for the complainant seek time to file reply/status report.

Adjourned to 17.11.2023.

In the meantime, the petitioner is directed to appear before the SHO/Investigating Officer to join investigation and in the event of his arrest, he shall be released on bail on his furnishing bail bonds to the satisfaction of SHO/Investigating Agency, subject to the following conditions as envisaged under Section 438(2) Cr.P.C.:-

- i) that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required;*
- ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;*
- iii) that the petitioner shall not leave the country, without prior permission of the Court and shall surrender his passport, if any.”*

3. Status report by way of affidavit of Sh. Darpan Ahluwalia, IPS, Assistant Superintendent of Police, Sub Division, Dera Bassi, District SAS Nagar filed by learned State counsel is taken on record. Registry to scan the same and tag at the appropriate place. Along with the status report, statement

of the victim recorded under Section 164 CrPC has also been appended. As per the statement, the victim has stated that no wrong act was committed with her and that she does not wish to pursue the complaint and that the same was filed by her husband.

4. 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 Kewal Kumar 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.

6. In view of the above, the order dated 24.07.2023 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

17.11.2023
jk

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