

2023:PHHC:150662

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(206)

CRM-M-36381-2023

Date of decision: 28.11.2023

Ravikant Swami

.....Petitioner

V/s

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. K.S. Khehar, Advocate, Advocate, for the petitioner.
Mr. Ranvir Singh Arya, Addl. Advocate General, Haryana.
Mr. Saransh Sabharwal, Advocate, for the complainant.

VIKRAM AGGARWAL, J (ORAL)

1. Prayer in the present petition filed under Section 438 Cr.P.C. is for the grant of pre-arrest bail in case FIR No.56 dated 07.07.2023, registered under Sections 376 and 506 IPC, at Women Police Station, Panchkula.

2. On 17.08.2023, the following order was passed by a Coordinate Bench of this Court:-

“1. The petitioner is seeking anticipatory bail in the case bearing FIR No. 56 dated 07.07.2023 under Sections 376 and 506 IPC registered at Women Police Station, Panchkula.

2. Status report by way of affidavit of Surender Singh, Assistant Commissioner of Police, Panchkula has been placed on record.

3. Learned counsel for the petitioner contends that initially the marriage of the prosecutrix was solemnized in the year 2011 which ended in divorce in the year 2017. She had subsequently solemnized another marriage. The prosecutrix

had procured widow pension on the basis of forged documents pertaining to the death of her first husband. The petitioner had extended help in procuring bail for the prosecutrix on account of cordial family relations. The family of the petitioner as well as the prosecutrix were having cordial relations, which are also made out from the photographs, Annexure P-3. The complainant has levelled allegations of commission of rape without specifying any date or month. The FIR has been lodged after a lapse of period of two years. As per the allegations, the prosecutrix was sexually abused by the petitioner in a room in hotel Shiraaj. Status report submitted by the learned State counsel indicates that on verification from the said hotel and CCTV footage, it revealed that allegations of the prosecutrix were not substantiated. Even as per the allegations of the prosecutrix, she was taken to a room of the hotel situated on the ground floor and infact no rooms were constructed on the ground floor in the month of July, 2021 as restaurant was being run in the hotel premises at that point of time. It was in the year 2022 that 09 room were constructed on the ground floor by removing the restaurant area.

4. Learned State counsel, on instructions from ASI Yogdhyan, and the learned counsel for the complainant submit that today in the morning, the prosecutrix had got recorded her statement to the Investigating Officer that she has inadvertently got recorded the name of hotel Shiraaj in the statement on the basis whereof, the FIR has been registered. In fact, the incident took place in the adjoining hotel known by the name of Parbhat Inn.

5. It may be mentioned here that the aforesaid statement of the prosecutrix has been recorded after a period of about 01 month from the registration of the FIR. The categoric case as put forth in the FIR with regard to the occurrence taken place in the premises of the hotel Shiraaj stands falsified as per the investigation conducted till date.

6. Adjourned to 28.11.2023.

7. In the meanwhile, the petitioner is directed to join

investigation and in the event of his arrest, he 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.”

3. Learned counsel for the petitioner submits that in compliance of the aforesaid order dated 17.08.2023, the petitioner has duly joined investigation.

4. Learned counsel representing the State of Haryana, on instructions from PSI Neha, who is present in the Court, submits that in compliance of the order dated 17.08.2023, the petitioner has duly joined investigation and his custodial interrogation is not required.

5. In view of the fact that petitioner has duly joined investigation and keeping in view the statement given by learned counsel representing the State of Haryana, the present petition is allowed. The order dated 17.08.2023 passed by this Court is made absolute, subject to compliance of the provisions as envisaged under Section 438(2) Cr.P.C.

(VIKRAM AGGARWAL)
JUDGE

November 28, 2023
vcgarg

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No