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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39418-2022

Date of Decision:- 30.01.2023

SHUBAM ALIAS MINKU

....Petitioner

Vs.

STATE OF PUNJAB

...Respondent

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Amanpreet Singh, Advocate for the petitioner.

Mr. Kunwarbir Singh, Asstt. A.G. Punjab.

Ms. Riffi Birla, Advocate for the complainant.

AMARJOT BHATTI, J. (Oral)

The petitioner – Shubam alias Minku has filed the instant petition under Section 438 Cr.P.C. for grant of pre-arrest bail in FIR No. 0079, dated 01.06.2022 under Sections 376, 323, 506 and 34 of IPC registered at Police Station City Fazilka.

The facts of the case are that the prosecutrix gave her statement to the police that she has studied upto 7th Class. Her father has already expired. She is unmarried. The entire family members stay in the same house. She is residing on the ground floor. Their neighbour Shubam alias Minku got friendly with her for the last 10 years. He used to say that he would marry her. They were having physical relations. On 29.05.2022, at about 06:00 A.M, when other family members were sleeping, he entered her room and forcibly maintained physical relations with her. She did not tell about this fact to her family members. On 29.05.2022, she came to know that Shubam alias Minku was getting engaged with another girl. She

disclosed about Shubam alias Minku to her family and also disclosed this fact to his family but they did not pay any heed. In fact, the family members of Shubam alias Minku abused her and gave her beating and she was turned out of the house. Many people had gathered there. Kirna Rani - mother of Shubam alias Minku got one FIR registered against her and her family members. She alleged that Shubam alias Minku maintained physical relations with her on the pretext of marriage. With these allegations, the present FIR has been registered.

Learned counsel for the petitioner argued that the petitioner is younger as compared to the prosecutrix. There were neither forcible physical relations nor there was any promise to marry her. On 29.05.2022, the prosecutrix created scene on the day of his engagement. He also referred to the FIR No. 78 dated 30.05.2022, registered under Section 452, 324/34 of IPC against the prosecutrix and her family. He has already joined the investigation and he is still ready to abide by the terms of bail order. It is prayed that ad-interim bail already granted in his favour may kindly be confirmed.

On the other hand, learned counsel for the complainant as well as the learned counsel representing the State argued that there are specific serious allegations against the present petitioner. It is admitted that it is a case of version and cross-version. In fact, when the prosecutrix objected the engagement of petitioner by going to his house, she was beaten up and was turned out of the house. It is the prosecutrix who is the victim and falsely involved in another FIR on the complaint of mother of the petitioner. Considering the specific allegations and the gravity of offence, the petitioner is not entitled to be released on bail.

I have considered the arguments and have gone through the

record. The petitioner was granted ad-interim bail vide order dated 01.09.2022. The prosecutrix has levelled specific allegations of long relationship of the petitioner with the prosecutrix on the assurance of marriage. The dispute arose when the petitioner was being engaged with some other girl. One FIR was got registered by the mother of the petitioner, whereas, the present FIR has been got registered with serious allegations of rape by the prosecutrix. The matter requires thorough investigation. The allegations are specific and serious in nature. In case, the petitioner is released on bail, the investigation of this case may be adversely effected. Therefore, considering the gravity of offence and specific allegations, I do not find merits in the anticipatory bail application filed by the petitioner – Shubam alias Minku and the same is, accordingly, declined.

30.01.2023

*lalit***(AMARJOT BHATTI)**
JUDGE

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