

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No.44809 of 2023
Date of Decision: 31.10.2023

Sukhdev Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Argued by:- Ms. Riffi Birla, Advocate
for the petitioner.

Mr. Gurlal Singh Dhillon, AAG, Punjab
for the respondent-State.

None for the complainant

MEENAKSHI I. MEHTA, J.

Apprehending his arrest in the criminal case arisen out of the FIR bearing No.229 dated 03.10.2022 registered at Police Station Sadar Fazilka, District Fazilka, under Section 376 IPC, the petitioner has preferred the instant petition for seeking the relief of anticipatory/pre-arrest bail.

2. Bereft of unnecessary details, the allegations, as levelled by the complainant-prosecutrix (here-in-after to be referred as 'P') in the subject FIR, are that after the dissolution of her marriage with Gurpreet Singh, she, along-with her daughter, had been residing at her parental home and had been working in the Army Cantonment at Fazilka. She had been in contact with the petitioner, an Army personnel, for the last about 1½ year. The petitioner had told her that he had divorced his wife and thus, he had been having physical relations with her on the pretext of marrying her but for the last two months,

they were not on talking terms with each other. However, on 26.09.2022, while she was on her way to her village from Fazilka, the petitioner met her and asked her to sit in the Car and then, he raped and dropped her on the way.

3. Status-Report has already been filed on behalf of the respondent-State by way of the affidavit of the Deputy Superintendent of Police, Sub-Division Fazilka.

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

5. Learned counsel for the petitioner has contended that 'P' is a mature lady and is the mother of a child and she had been having consensual physical relations with the petitioner but when their relationship turned sour, she 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.

6. Per-contra, learned State counsel has argued that in view of the gravity of the offence committed by the petitioner, this petition be dismissed.

7. As mentioned earlier, 'P' was having physical relationship with the petitioner but since 02 months prior to the alleged occurrence, they had not been on talking terms with each other. In Para No.5 in the Status-Report, it has specifically been stated that in her statement as recorded under Section 164 Cr.P.C, 'P' has categorically deposed that she and the petitioner had been living in relationship and when the petitioner went for a job for 02 months, she had got the subject FIR registered due to some misunderstanding. To add to it, Annexure P-2 is the copy of the order passed by the Co-ordinate Bench on 12.08.2021 in *CRWP No.7552 of 2021*, as jointly preferred by 'P' and the

petitioner for seeking the issuance of a writ in the nature of mandamus to direct the Police Authorities to provide protection to them. Then, in Para No.7 in the Status-Report, it has, further, been deposed that except the present case, no other FIR has been registered against the petitioner.

8. Keeping in view the afore-discussed facts and circumstances, this Court is of the considered opinion that the instant petition deserves to be allowed. Resultantly, the same is hereby allowed and the petitioner named Sukhdev Singh is granted the relief of pre-arrest/anticipatory bail subject to his furnishing the requisite personal and surety bonds to the satisfaction of the Investigating/Arresting Officer.

9. However, he shall strictly abide by the following conditions as laid down in Section 438(2) Cr.P.C.:-

*“(i) he shall make himself available for interrogation by a police officer as and when required;
(ii) he shall not, directly or indirectly, make any inducement, threat and promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
(iii) he shall not leave India without the previous permission of the Court.”*

10. It is further clarified that nothing contained here-in-before shall be construed to be an expression of the opinion of this Court on the merits of the case under reference.

October 31, 2023
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No