

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

CRM-M No.49082 of 2023
Date of Decision: 17.11.2023

Jagdish

.. Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Aakriti Mittal, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

Mr. Sankalp Gehlawat, Advocate,
for respondent No.3.

MANISHA BATRA, J.

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure by the petitioner seeking anticipatory bail in case bearing FIR No.0587 dated 04.08.2023 registered under Sections 147, 148, 149, 323 and 506 of IPC (later on Sections 354, 354-A and 354-B of IPC, 1860 inserted) at Police Station Azad Nagar, Hisar, Haryana.

2. The brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on her statement recorded by the complainant-respondent No.3 on 04.08.2023 alleging therein that on 03.08.2023 at about 12 PM, she along with her husband Ramesh Kumar and father-in-law Rajendra was

Neutral Citation No.2023:PHHC:146459

spraying chemicals in her fields when the petitioner who is her brother-in-law (husband of sister-in-law) reached there along with 4-5 unknown persons having muffled faces. They were all in drunken condition and opened an assault upon the complainant by catching hold of her and dragging her. The petitioner gave a fist blow on her teeth. The petitioner then got her thumb impression procured on a blank paper while pointing a knife towards her. Even her phone was also lost in the scuffle. She was taken to the hospital and was medically examined. On her statement, initially a case under Sections 147, 148, 323 and 506 read with Section 149 of IPC was registered. The complainant then recorded her supplementary statement on the basis of which offences under Sections 354, 354-A and 354-B of IPC were added. Investigation proceedings are going on.

3. The present petition has been filed by the petitioner seeking grant of anticipatory bail by submitting that the complainant-respondent No.3 and himself are close relatives and he has been falsely implicated in this case due to having a dispute over a piece of land. The allegations as levelled by the respondent No.3-complainant as to sexually assaulting and outraging her modesty at the hands of the petitioner, are only an afterthought.

4. Learned counsel for the petitioner argued that the custodial interrogation of the petitioner was not required. No recovery was to be effected from him. No useful purpose would be served by detaining him in custody. Therefore, she argued that the petition deserved to be allowed.

5. The petition has been resisted by the State in terms of the status report filed by the respondent-State. It is submitted therein and learned State

Neutral Citation No.2023:PHHC:146459

counsel along with learned counsel for the complainant argued that there were serious and specific allegations against the petitioner. The knife which had been allegedly used by him for threatening and pressurizing the respondent No.3-complainant for affixing her thumb impression on a blank paper was yet to be recovered. The custodial interrogation of the petitioner was required for proper investigation of the matter as well as for effecting recovery. Therefore, they urged that the petition did not deserve to be allowed.

6. I have heard learned counsel for the parties at a considerable length and have perused the record.

7. The petitioner-accused along with some other unknown persons is alleged to have entered into the fields of the respondent No.3-complainant on 03.08.2023 by forming membership of an unlawful assembly and in pursuance of common object of that assembly, he is alleged to have opened an assault upon respondent No.3 thereby injuring her and is further alleged to have secured her thumb impressions by criminally intimidating her. As per the allegations, he had also tried to outrage the modesty of respondent No.3 by tearing her shirt and molesting her. The custodial interrogation of the petitioner is required for proper investigation of the matter. It is well settled proposition of law that powers under Section 438 of Cr.P.C. are to be exercised in extraordinary and sparing circumstances. More so custodial interrogation of a suspected person is of tremendous advantage in disinterring many useful information and also material which would have been concealed. The custodial interrogation is qualitatively more elicitation oriented than questioning a suspect which is well ensconced with a

favourable order under Section 438 of Cr.P.C. Keeping in view the nature of allegations as levelled against the petitioner and the attendant facts and circumstances, no ground has been made out for allowing this petition. Hence, the same is dismissed.

17.11.2023
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(MANISHA BATRA)
JUDGE

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