

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.51504 of 2023
Date of decision: 03.11.2023

Jagmeet Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Karanveer Dhaliwal, Advocate,
for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.
for the respondent-State.

MANISHA BATRA, J.

1. The present petition under Section 438 of Code of Criminal Procedure has been filed by the petitioner seeking anticipatory bail in case bearing FIR No.105 dated 11.08.2023 registered under Section 376 of IPC at Police Station Khuian Sarwar, District Fazilka, Punjab which had been registered on the basis of statement recorded by 19 year old prosecutrix (name withheld) alleging therein that about 4 months back, she had got married with Harmeet Singh a co-villager as she had fallen in love with him and had been residing in her matrimonial house where other members of her in-laws family were residing. Sometime after the marriage, her husband and other family members had started torturing her. About 25 days back when she was alone in her house in the noon time, the petitioner who is her brother-in-law had come home and on

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finding her alone, he had ravished her forcibly. She did not disclose about the incident to anybody out of fear at that time. Then on 03.08.2023, the petitioner came home in a drunken condition and after teasing her, again committed rape upon her. She narrated the incident to her husband who did not pay any heed. She went to her parental house 2-3 days thereafter and informed her family members about this fact. On her statement, a case under Section 376 of IPC was registered. Investigation proceedings are going on. The petitioner had moved an application for grant of anticipatory bail before the learned Fast Track Special Court (POCSO), Fazilka which was dismissed vide order dated 03.10.2023.

2. The present petition has been filed on the grounds and it has been argued by learned counsel for the petitioner that there were false and frivolous allegations against him. The FIR was registered on vague allegations. There were unexplained delay in reporting about the alleged incident to the police. Infact, the complainant had performed marriage with the brother of the petitioner against the wishes of her parents and other family members. She had left her matrimonial house and was living with her parents who were demanding divorce from the brother of the petitioner. The custodial interrogation of the petitioner was not required. He was ready to join the investigation. Therefore, it has been argued that the petition deserved to be allowed.

3. The petition has been resisted in terms of status report as filed on 02.11.2023 by respondent No.1. It is submitted therein and it has been argued by learned State counsel that the victim had recorded her

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statement before the Magistrate reiterating the allegations in her statement which had resulted in lodging of FIR. There were serious and specific allegations against the petitioner. His custodial interrogation was must. Hence, he has argued that no case for grant of anticipatory bail was made out and the petition was liable to be dismissed.

4. The petitioner who is brother-in-law of the victim is alleged to have ravished her on 03.08.2023 and some days prior to that. The allegations against the petitioner are serious and specific in nature. As per the status report filed by the respondent, the vaginal swabs of the victim have been sent to Forensic Science Laboratory, Mohali and the report from FSL is yet to be received. The medico legal examination of the victim had also been conducted. At this stage, there is nothing on record to show that there was any discord between the victim and her husband and she had left her matrimonial house due to that reason. In the peculiar circumstances of the case, the custodial interrogation of the petitioner is certainly required. 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

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ground has been made out for allowing this petition. Hence, the same is dismissed.

03.11.2023
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No