

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

279

CRM-M-52353-2023 (O&M)

Date of decision: 20.11.2023

Rahul**...Petitioner****Versus****State of Punjab and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Ruhani Chadha, Advocate
for the petitioner.

Ms. Himani Arora, AAG, Punjab
for respondent No. 1-State.

Mr. Sandeep Arora, Advocate
for respondent No. 2/Complainant.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 438 of Cr.P.C. seeking grant of pre-arrest bail in FIR No. 109 dated 24.08.2023, registered under Sections 376, 120-B and 506 of the IPC at Police Station Satnampura, District Kapurthala.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforesaid FIR was registered on 24.08.2023 on the basis of a written complaint submitted by the prosecutrix 'D' (*name withheld*) alleging therein that she was a theatre artist by profession. A few months back, she had a conversation with accused Pritpal Singh, who had represented to her that he wanted to shoot a song and would also do some short movies with her. He also told her that one Gurdial Singh @ Babbu, who was a Film Director, was also searching for some theatre artist

and he had given her reference to him. She further alleged that above said Gurdial Singh @ Babbu had made a Whatsapp call to her mobile number and had told her that he wanted to do shooting and the same will be done in the area of Jalandhar City. He also gave the phone number of the present petitioner to the prosecutrix by disclosing that the petitioner was also a Director-cum-Cameraman by profession and he would contact her. She further alleged that on the intervening night of 15-16.08.2023, the petitioner sent a message to her to contact one Love by telling her that he was also a Director and also sent the phone number of said Love to the prosecutrix. The said Love called the prosecutrix on phone while telling her that the petitioner had told him to contact her, he represented that he had to shoot a song and for that purpose, she would have come to Jalandhar.

3. On 16.08.2023, on the asking of the said Love, the prosecutrix reached Jalandhar and though the petitioner had told her that he would be present there, however, he was not found there. Accused Love took her to a restaurant named *Haveli* and while on the way to restaurant, he gave some bottle of Coke drink, on consuming which, she felt dizziness and thereafter, she lost her senses. On reaching *Haveli*, accused Love got *Dosa* served upon her and then made her sit in the car. By that time, she was not feeling well. She started vomiting and was not even able to walk. Accused Love took her to a room in the building situated in the proximity of Lovely Professional University and then committed rape upon her. Thereafter, he extended threat to kill her if she would disclose the incident to anyone. On this complaint, a case was registered. Investigation is going on.

4. The present petition has been filed by the petitioner seeking

pre-arrest bail on the ground that he has been falsely implicated in this case. There was unexplained delay of eight days in lodging the FIR. No medico-legal examination of the prosecutrix was conducted. No specific overt act in the commission of offence of rape had been attributed by the prosecutrix to the petitioner. The petitioner had only forwarded the phone number of co-accused Love to the prosecutrix on a request made by her that she was in dire need of work. He had never met the prosecutrix. The allegations of rape were as against co-accused Love and not against him. He did not have any criminal antecedents. He was ready to join investigation and he had move an application for grant of bail before the learned trial Court, but the same had been dismissed. Therefore, it is urged that the present petition deserves to be allowed.

5. The plea of the petitioner for grant of pre-arrest bail has been resisted by learned State counsel in terms of report/reply dated 16.11.2023. It is submitted therein and it was argued by learned State counsel that there were serious allegations against the petitioner. He had introduced the victim with the co-accused and it was in connivance with him and in pursuance of a conspiracy hatched by him with co-accused that the victim had been called by co-accused Love and was ravished by him. The matter requires thorough investigation. Therefore, it is urged that the present petition is liable to be dismissed.

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

7. The petitioner is alleged to have entered into a conspiracy with

co-accused Love and in pursuance thereof, co-accused Love is alleged to have forcibly committed rape on the victim on 16.08.2023. The allegations levelled in the FIR are serious in nature. 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.

20.11.2023

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No