

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

205

CRM-M No.53200 of 2023
Date of decision: 06.11.2023

Jagdish Singh alias Disha Brar

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rajesh Bhatheja, Advocate,
for the petitioner.

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

MANISHA BATRA, J.

1. The instant petition has been filed by the petitioner under Section 438 of Cr.P.C. seeking grant of anticipatory bail in case bearing FIR No.61 dated 12.07.2023 registered under Sections 376 and 506 of IPC at Police Station Sadar Moga, District Moga on the basis of a written complaint submitted by the prosecutrix "L" (name withheld) alleging therein that about 11-12 years back, the petitioner accused Jagdish Singh @ Disha Brar who was son of maternal uncle of her husband had started residing with her husband and herself as some dispute had taken place at Village Sangatpura leading to use of firearm by the petitioner and leaving his own house. The entire expenses of the petitioner were borne by her husband. She alleged that after staying with the petitioner and her husband for about three years, the petitioner forced the prosecutrix to

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have physical relations with her in the absence of her husband and otherwise threatened to kill her and by extending threats, he had been indulging her in sexual relations ever since then. Subsequently, he had started blackmailing her and extracted huge amount of money from her. He had even purchased a car in her name and had not paid instalments of the same thereby compelling the prosecutrix to sell her house to repay the loan to the Bank. The prosecutrix further alleged that now the petitioner had started residing with one Jaswinder Kaur resident of Village Sosan and had also developed proximity with some political persons but still he kept on threatening her and compelling her to maintain physical relations with her. Therefore, she prayed for taking penal action against the culprit. On her complaint, a case under Section 376 and 506 of IPC had been registered. Investigation is going on. The petitioner had moved an application for grant of anticipatory bail before learned Fast Track Court/Special Court for dealing with cases of heinous crime against woman, but his bail application was dismissed vide order dated 06.10.2023.

2. The present petition has been filed by the petitioner for grant of anticipatory bail on the grounds and it has been argued by his counsel that a false story had been concocted by the prosecutrix as he had neither committed rape upon her nor ever threatened her. He was living in the house of the prosecutrix and her family members from the last 11-12 years with their consent and it was only when he had gone back to his parental house to look after his aged parents and was then planning to go

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abroad that the complainant had falsely involved him in this case as she was not happy with the decision of the petitioner of going abroad. It was submitted that the petitioner was a politician and social activist. His political status was increasing day by day which was the cause of jealousy by the relatives of the prosecutrix. It has been submitted that the petitioner is ready to join the investigation. He is not involved in any other case and hence, it has been urged that he deserves to be given concession of anticipatory bail. To fortify his argument, learned counsel for the petitioner has relied upon authorities cited as **Prashant Bharti v. State of NCT of Delhi**, 2013 (3) SCC (Cri) 920; **Vinod Kumar v. State of Kerala**, 2014 (2) Cri.CC 657 and **Tilak Raj v. State of Himachal Pradesh**, 2016 (1) R.C.R. (Criminal) 802.

3. The bail application has been resisted by the State in terms of status report dated 31.10.2013. It is submitted that the allegations against the petitioner are serious in nature as he had developed physical relations with the prosecutrix against her wishes and had also threatened her. In her statement recorded under Section 164 of Cr.P.C., the victim had reiterated the version as given in the complaint. After registration of the case, the petitioner had even concealed himself somewhere. Proclamation proceedings have been initiated against him. Challan has also been presented in the concerned Court but this fact has been concealed by the petitioner. Hence, he argued that the petition did not deserve to be allowed.

4. The petitioner is alleged to have maintained forcible sexual

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relations with the prosecutrix for the last about 7-8 years and is alleged to have blackmailed her thereby extracting money from her and is further alleged to have criminally intimidated her. There are specific and serious allegations against the petitioner. It is not his claim that the sexual relations between the prosecutrix and himself were consensual in nature. The allegations as levelled certainly require custodial interrogation and investigation to find out whether it was a case of rape or not. 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 by the Court. While considering an application for grant of bail, the Court ought to be guided by consideration such as nature and gravity of the offences, the role attributed to the applicant and the facts of the case, while considering the question whether to grant an anticipatory bail or not and this is a matter of discretion of the Court. (See: **Sushila Aggarwal and others v. State (NCT) of Delhi and another**, (2020) 5 SCC 1. It is also well settled that 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. The authorities which have been relied upon by the petitioner as **Vinod Kumar's** case (Supra) and **Tilak Raj's** case (Supra) are relating to appeals against judgment of conviction/acquittal in rape cases and not relating to anticipatory bail matter. **Prashant Bharti's** case (Supra) was

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also not relating to the question of anticipatory bail. Keeping in view the serious nature of the allegations as levelled by the prosecutrix, the role as attributed to him and the attendant facts and circumstances of the case, I am of the opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

06.11.2023	(MANISHA BATRA)
manju	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No