

2023:PHHC:105624

**229 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-S-2500-2022

Date of Decision: 16.08.2023

NILESH

... APPELLANT

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Gautam Dutt, Advocate, for the appellant.
Mr. Surinder Kumar Dagar, DAG, Haryana.
Mr. Punit Malik, Advocate, for the complainant.

VIVEK PURI, J.(ORAL)

1. The appellant has assailed the order dated 16.11.2022 passed by the Court of learned Additional Sessions Judge, Rewari, vide which anticipatory bail filed by the appellant in the case bearing FIR No.0479 dated 01.10.2022 under Section 10 of the POCSO Act and Sections 34, 376(2) (n), 380 and 506 IPC (Section 377 and Section 3 of the SC & ST Act added later on) registered at Police Station Model Town Rewari, District Rewari, has been dismissed.

2. On 15.12.2022, the following order was passed:-

“The appellant has assailed the order dated 16.11.2022 passed by the Court of learned Additional Sessions Judge, Rewari, vide which anticipatory bail filed by the appellant has been dismissed.

Learned Senior Counsel for the appellant contends that primarily the allegations of commission of rape have been attributed against Dinesh @ Raj Kumar (coaccused). Although, there are allegations to the effect that one person by the name of Sarpanch @ Akhilesh was the owner of the Santosh Guest House, wherein, the prosecutrix was sexually abused and exploited. There are allegations to the effect that Sarpanch @ Akhilesh had also committed rape upon the prosecutrix. The allegations with regard to sexual assault upon the minor daughter of the prosecutrix have not been attributed to Sarpanch @ Akhilesh. In fact, the appellant though is the owner of the Santosh Guest House, but he is not known by the name of Sarpanch @ Akhilesh. The prosecutrix had also submitted an application to the Senior Superintendent of Police, Annexure P-3, wherein, it has been specifically stated that she does not know the appellant and is not aware as to who is running the Guest House. It has also been mentioned that appellant

has not done any wrong with her. She does not know the name of the owner of the Santosh Guest House and the name was told as Akhilesh by Raj Kumar, co-accused. Even, she has submitted an affidavit (Annexure P-5) in this regard.

Notice of motion.

Mr. Karan Garg, AAG, Haryana, accepts notice on behalf of the respondent-State and seeks adjournment to get instructions and submit the status report depicting the detail of incriminating evidence against the appellant.

Mr. Punit Malik, Advocate, has joined the proceedings on behalf of the complainant, placed on record vakalatnama and has

not disputed the factual assertions as put forth on behalf of the appellant. He further submits that the appellant is not, in any manner, involved in the sexual abuse of the prosecutrix or her daughter.

Adjourned to 19.04.2023.

In the meanwhile, the appellant is directed to join investigation and in the event of his arrest, he shall be released on interim bail to the satisfaction of the Investigating Officer/Arresting Officer subject to the conditions as envisaged under Section 438 (2) of Code of Criminal Procedure.

Status report be furnished in the meanwhile.”

3. Learned counsel for the appellant contends that in pursuance of interim directions issued by this Court, the appellant has joined the investigation. Furthermore, the appellant is the owner of the hotel premises and the same has been leased out by him. During the course of investigation, he had produced the persons, who have taken the premises on lease, before the Investigating Agency.

4. Learned State counsel, on instructions from ASI Naresh Kumar, who is present in the Court, submits that the appellant has not cooperated with the Investigating Agency as the Register maintained in the Guest House/Hotel has not been produced. However, it has not been disputed that the appellant had produced one of the persons, who was running the Guest House/Hotel by taking the same on lease from him.

5. Learned counsel for the complainant has re-asserted that the appellant is not, in any manner, involved in sexual abuse of the prosecutrix or her daughter.

6. As the appellant has joined the investigation in pursuance of interim directions issued by this Court and had also produced the persons, who have taken the premises on lease from him, the order dated 15.12.2022, vide which the appellant has been granted interim bail, is made absolute.
7. Appeal is allowed.

16.08.2023
smriti

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No