

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

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CRM-M-55046-2023
Date of decision: 23.11.2023

Pankaj Kumar**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Namit Khurana, Advocate
for the petitioner.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

Mr. Inderjeet Singh, Advocate
for the complainant.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed under Section 438 of Cr.P.C. by the petitioner seeking grant of anticipatory bail in case FIR No. 43 dated 05.10.2023, registered under Sections 376(2)(n) and 506 of IPC at Police Station Women, Yamuna Nagar, District Yamuna Nagar.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint submitted by the complainant 'N' (name withheld) on 05.10.2023, alleging therein that the petitioner was working in an electronic shop existing in front of the house of the complainant and ever since the year 2019, he had been alluring her to enter into a relationship with him on the pretext of performing marriage with her. He had also been inducing the complainant to enter into a physical relationship with him. On the asking of the petitioner, the parents of the complainant had even gone to the house of

the petitioner for the purpose of their matrimonial alliance, but the family members of the petitioner had refused to get the complainant married with the petitioner. The complainant alleged that the petitioner had still been forcibly indulging her into sexual relationship by promising to marry her. Even on 06.03.2023, he took her to one hotel in Yamuna Nagar, wherein she was ravished and was threatened to be killed if she disclosed about the incident to anyone. Thereafter, he had refused to marry her. Hence, the complainant prayed for taking penal action against the petitioner. After registration of the FIR, investigation proceedings have been initiated and the same are going on. The petitioner had filed an application for grant of anticipatory bail before the Exclusive Court dealing with heinous crime against women at Yamuna Nagar, but the same had been dismissed, vide order dated 27.10.2023.

3. The present petition has been filed by the petitioner on the ground that he has been falsely implicated in this case. He did not commit the subject offence. Rather, they were in consensual relationship. He had never given any assurance to marry her. He was ready to join the investigation. His custodial interrogation was not at all required. Therefore, it is urged that the petitioner deserves to be given concession of anticipatory bail.

4. Status report has been filed by respondent No. 1-State. Learned State counsel, assisted by learned counsel for the complainant, has argued that there were specific and serious allegations against the petitioner. His custodial interrogation was required for thorough investigation in the matter. Henc, he argued that the petition did not deserve to be allowed.

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

6. The petitioner is alleged to have induced the complainant to enter into sexual relationship with him on the pretext of performing marriage with her and is alleged to have forcibly committed rape upon her subsequently and then refused to perform marriage with her. The allegations against him are serious in nature. His custodial interrogation is required for fair and proper investigation in the matter. Even otherwise, 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. However, no such circumstance has been made out in this case. More so, it is equally well settled proposition of law that custodial interrogation of a suspected person is of tremendous advantage in disinterring many useful information. 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.

7. Keeping in view the nature of allegations, which have been levelled against the petitioner, the acts attributed to the petitioner and attendant facts and circumstances, I am of the considered opinion that no ground has been made out for extending benefit of pre-arrest bail to the petitioner. Hence, the petition is dismissed.

23.11.2023

Waseem Ansari

**(MANISHA BATRA)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*