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

CRM-M-58840-2022

Date of Decision:- 11.04.2023

SAURABH UPADHYAY

...Petitioner

Vs.

STATE OF PUNJAB

...Respondent

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present: Mr. Amandeep Singh Nirmaan, Advocate for the petitioner.

Mr. Kunwarbir Singh, Assistant A.G. Punjab.

AMARJOT BHATTI, J. (Oral)

1. The petitioner Saurabh Upadhyay has filed this petition under Section 438 Cr.P.C. for grant of anticipatory bail in FIR No.255 dated 04.09.2022 under Sections 323/376/377/342/504/506 IPC, registered at Police Station City Kharar, District SAS Nagar.

2. The facts of the case are that the prosecutrix filed a written complaint to the police that she was engaged with Saurabh Upadhyay on 23.04.2022. She is B.Tech qualified and was doing private job in Delhi. After engagement ceremony the accused called her at Chandigarh to show her the new flat. When she came to Chandigarh the accused forcibly developed physical relations with her on 14/15.05.2022. He told her that

they were already engaged and they will marry soon. Thereafter, she was called on 28.05.2022 and 11.06.2022 and during this period he repeatedly maintained physical relations with her despite her refusal. He also clicked her nude photographs and prepared video without her knowledge. He started telling her to leave her job in Delhi. She was told that the marriage will be performed only if she will bring Rs.20 lacs in cash from her parents as dowry. The accused had kept her gold ring, gold chain, topes and expensive clothes worn at the time of engagement at his residence in Chandigarh. On 09.07.2022 she went to Chandigarh to collect her articles but she was beaten up. She was confined in a Room and indulged in unnatural physical relations. She managed to come back on 12.07.2022 and informed her parents. Her father had spent Rs.7 lacs on engagement. He gave her continuous threats. With these allegations the present FIR has been registered.

3. Learned counsel for the petitioner argued that all the allegations levelled against him are false. No such occurrence ever took place. The prosecutrix visited Chandigarh with her own free consent. It is the complainant who used to call him time and again and asked him for money. He has placed on record money transactions (Annexure P-4). She again told him to accompany her and her brother to Indore for her brother's admission in a College. They went to Indore by air on 18.06.2022. The tickets are Annexure P-5. In-fact all the allegations of rape and ill treatment are false and without any basis. She wants to marry another person namely Sadanand, for this reason she is levelling false allegations. He has also relied upon one conversation recorded in CD (Annexure P-6). He has placed on record the photographs, Annexure P-7,

train tickets booked by the complainant, Annexure P-8. She has also prepared her matrimonial profile. Copy of which is Annexure P-10. Therefore, it is the complainant who has no intention to marry him. He has also joined the investigation. He is still ready to do so. Therefore, his anticipatory bail application may be allowed.

4. The bail application is opposed by learned counsel representing the State. Status report is filed. It is argued that there are specific serious allegations against the petitioner but at the same time it is conceded that he has already joined the investigation on 11.01.2023 as per the orders of this Court. It is further alleged that he did not cooperate in the investigation.

5. I have considered the arguments and have gone through the record. Both - the prosecutrix and the petitioner were admittedly engaged and thereafter they started meeting each other. There are photographs and air tickets to show that they travelled together. The petitioner has also placed on record the extract of money sent by him to the complainant, Annexure P-4. The complainant herself conceded that she visited Chandigarh number of times to meet the petitioner. The petitioner is ready to join the investigation as and when required. As per the status report he had joined the investigation on 11.01.2023 and he is still ready to do so. Considering the aforesaid facts and circumstances of the case, I find merits in the anticipatory bail filed by the petitioner and the same is allowed. The petitioner be not arrested and in case of his arrest, he be released on bail to the satisfaction of Investigating Officer/Arresting Officer subject to the conditions under Section 438 (2) Cr.P.C.

The petition is, accordingly, accepted.

11.04.2023

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned: Yes/No.

Whether reportable: Yes/No