

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(221)

CRM-M-60348-2022
Date of Decision:-08.02.2023

John Bhatti

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. S.S. Siao, Advocate for the petitioner.

Mr. Arun Gupta, AAG, Punjab.

ALOK JAIN, J. (Oral)

Prayer is for grant of regular bail to the petitioner in case FIR No.0114 dated 18.07.2022, under Sections 376/506/34/201 of IPC (Section 201 IPC added later on), Section 6 of POCSO Act, (Section 25/27 Arms Act has been deleted by investigating agency on 18.11.2022), registered at Police Station City Batala, District Gurdaspur.

Learned counsel for the petitioner has submitted that the entire story built up in the FIR is false and in fact, the mother of the prosecutrix had borrowed a sum of Rs.3 lacs from the petitioner and for return of which, she had issued two cheques, which is annexured as P-2/1 and P-2/2. He further submits that when the cheques bounced, petitioner issued a legal notice (Annexure P-3) but the same was not replied and he proceeded to file a complaint under Section 138 of Negotiable Instrument Act (Annexure P-

4). He submits that the FIR is the counter-blast to the said proceedings. He further submits that the entire story built up by the prosecutrix is false as the petitioner is a married man having wife and two children. Learned counsel for the petitioner submits that in fact he had approached this Hon'ble Court for grant of anticipatory bail and vide order dated 23.08.2022, the petitioner was directed to surrender before the concerned Court within seven days and file an application. In pursuance thereto, the petitioner surrendered before the Court below on 30.08.2022 and he is in custody since then. He further submits that nothing is to be recovered, investigation has been completed and the challan has been presented. He submits that the version of the complainant is not supported by the Medico Legal Report.

Per contra, learned State counsel has vehemently opposed the said petition and the prayer made therein on the ground that the entire story built up by the petitioner is false and in fact the story of the cheques, legal notice and complaint under Section 138 of Negotiable Instrument Act are later to the lodging of the present FIR. He submits that the FIR was lodged on 18.07.2022, whereas, notice was issued on 02.08.2022 and subsequently, the alleged complaint under Section 138 of Negotiable Instrument Act was filed on 20.08.2022. In fact a perusal of the cheques shows that the said cheques seems to have been misused by the petitioner as the same was returned on 20.07.2022 and 27.07.2022 after the present FIR, therefore, story built up by the petitioner that the FIR is an outburst of the non-payment of the cheques is false. The correct position is other way round and the petitioner has not approached the Court with clean hands. He further submits that the challan has been presented, however, charges are

yet to be framed and the deposition is crucial in the matter. Moreso, there is every likelihood that the petitioner could exert pressure on the witnesses, and hence, prays that the present petition be dismissed.

Learned counsel for the petitioner in rebuttal has relied upon the judgment passed by this Hon'ble Court in the case titled as "***Deepak Mittal Vs. State of Haryana***", 2015(4) RCR (Criminal) 251 to contend that this Court in a case filed under Section 306 Cr.P.C. had granted bail once the investigation was completed and the challan was filed.

I have gone through the said judgment, however the facts narrated therein are entirely different from the act and offences narrated in the present petition.

In the present petition, the serious allegations against the petitioner are that he forcibly made physical relations with the minor prosecutrix on the gun point. The prosecutrix has specifically named the present accused and stated specific allegations of committing rape upon her for continuously three years. In fact, a photocopy of the cheques appended with the petition also shows that the same have been filled by someone else though alleged to be signed by the mother of the prosecutrix.

De hors the above, without commenting on merits of the case, this Court finds no merits in the present petition, and consequently, the same is dismissed and the petitioner is not entitled to regular bail, at this stage.

(ALOK JAIN)
JUDGE

08.02.2023

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