

In the High Court for the States of Punjab and Haryana at
Chandigarh

CRM-M-57834-2023

Date of Decision: *December 05, 2023*

Alam

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Liaqat Ali, Advocate,
for the petitioner.

Ms. Ruchika Sabherwal, DAG, Punjab.

Mr. Ankit Aggarwal, Advocate,
for the complainant.

Vivek Puri, J.

1. Petitioner is seeking anticipatory bail in case FIR No. 81, dated 02.07.2023, under Sections 363, 366-A, 120-B, 366 of the Indian Penal Code (for short 'IPC') (Sections 376-D, 506 IPC added later on), registered at Police Station Amargarh, District Malerkotla.

2. Briefly, the FIR has been registered on the allegations that on 19.06.2023, the complainant along with his wife and two sons and daughters-in-law were away from the house to attend the wedding. The victim and the grand children were in the house. At about 6 pm, they returned back to the house and found that the victim was missing

from the house. Golden ornaments and Rs. 20,000/- in cash were also missing. It was suspected that Gulam Nabi along with his brother Hussain Ali and sister Noor Bano had kidnapped the victim on the pretext of marrying her. The date of birth of the victim has been recorded as 01.05.2007 in the Aadhaar Card.

3. Learned counsel for the petitioner contends that the name of the petitioner has not been mentioned in the FIR. The victim is already married and the petitioner has been falsely implicated as his cousin is married with the grandson of the complainant. There is a matrimonial dispute between them and the cousin of the petitioner has instituted proceedings under the Protection of Women from Domestic Violence Act. The name of the petitioner has emerged in the statement of the victim recorded under Section 164 Cr.P.C., wherein allegations of commission of penetrative sexual assault have been attributed. The victim has not been medico-legally examined and even she has refused to get the ossification test.

4. Learned State counsel, as well as, learned counsel for the complainant have opposed the bail application. It has been submitted that in the statement under Section 164 Cr.P.C., the victim has specifically and categorically stated that the petitioner along with the co-accused had kidnapped her in a car. The victim was also threatened at the knife and

pistol point. The victim was initially taken to Pathankot in a hotel where the petitioner along with the co-accused committed wrongful sexual act with her. Thereafter, she was taken to Jammu and kept there for a period of 8 days. Subsequently, she was taken to Bhuchio Mandi and was forced to solemnize marriage with Gama accused. Some other persons from Haryana had also committed wrongful sexual act with her. It has been further submitted that the victim was medico-legally examined and the report of FSL has not yet been received.

5. It is significant to note that the name of the petitioner has been specifically mentioned in the statement of the victim recorded under Section 164 Cr.P.C. There are categorical allegations to the effect that the petitioner along with co-accused had kidnapped the victim at the knife and pistol point and committed rape upon her. The victim was taken to different places and was sexually abused on repeated occasions. Merely because the relative of the petitioner, who is married with the grandson of the complainant, is having matrimonial dispute, cannot be termed to be a circumstance at this stage to construe that the petitioner has been falsely implicated on that score. The report of FSL has not yet been received. Though the victim has refused to get the ossification test conducted, but there is nothing on record to indicate that the sexual assault was

committed with her consent. The victim has been sexually abused by the petitioner and many other persons. Such like offence cannot be viewed lightly. The matter requires thorough probe and investigation and custodial interrogation of the petitioner appears to be essential for the proper investigation of the case. No extra ordinary circumstances are made out which may entitle the petitioner for relief of anticipatory bail.

6. Present petition is dismissed accordingly.

December 05, 2023
vkd

[Vivek Puri]
Judge

Whether reasoned / speaking :	Yes / No
Whether reportable :	Yes / No