

Sr.No.104

2023:PHHC:149514

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

CRM-M-59140-2023(O&M)

Date of decision:23.11.2023

Raman

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: Hon'ble Ms. Justice Harpreet Kaur Jeewan

Present: Mr. Neeraj Jain, Advocate
for the petitioner.

Harpreet Kaur Jeewan, J.(Oral)

1. By this petition, the petitioner is seeking the concession of 'pre-arrest bail' upon FIR No.98 having been registered at Police Station Garhdiwal, District Hoshiarpur, on 15.10.2023, alleging therein, the commission of offences punishable under the provisions of Sections 376/452/323/506 of Indian Penal Code, 1860.

2. The present FIR has been lodged at the instance of the complainant who alleged that her husband died in the year 2022 and out of the said wedlock she is having three children. She is staying in house along with her children. However, the petitioner who is a neighbourer of the complainant used to visit her and used to force her for illicit relationship on the pretext of promise of solemnizing marriage with the complainant. On 11.10.2023, the petitioner entered her house at about 9:30 pm by scaling the gate and committed rape upon her, without her consent and thereafter, he left the house by jumping of the gate. Again on 13.10.2023, at about

1:00 pm, he forcibly entered the house of the complainant and on her refusal, the petitioner had beaten her up and caused injury.

3. Learned counsel for the petitioner contends that the ingredients of the offence punishable under Section 376 IPC are not made out from the FIR as the complainant has alleged that her husband died in the year 2022 and she was having illicit relationship with the petitioner. As per the contentions in the FIR that a married lady was having extra marital relations with the present petitioner as per her own choice. There is delay of 3 years in registration of FIR which is not explained. The petitioner has been falsely implicated this case and he is ready to join the investigation.

4. Notice of motion.

5. On advance notice, Mr. Sarabjit Singh Cheema, DAG, Punjab, appears on behalf of the State and placed on record the statement of the victim recorded under Section 164 Cr.P.C and copy of the MLR of the victim which reflects that there are four injuries on the person of the complainant out of which two are on the head, a vital part of the body. A copy of the MLR is taken on record.

6. As per the FIR, there are specific allegations against the petitioner regarding the sexual abuse of the prosecutrix dated 11.10.2023 and another occurrence dated 13.10.2023. Even the medical examination was done on 14.10.2023 at 11:55 am. The injuries having been inflicted on the vital part of the body as reflected in the MLR refutes the argument raised by the learned counsel for the petitioner that the victim was having a consensual relationship, the complainant has supported her version in the statement recorded under Section 164 Cr.P.C and even the report of

X-ray examination and FSL are awaited, as such no case is made out of granting the concession of pre-arrest bail.

6. Dismissed.

23rd November, 2023

[HARPREET KAUR JEEWAN]
JUDGE

Shivani Kaushik

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No