

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

204

CRM-M No.61184 of 2022

Date of Decision : 13.09.2023

Sanchay Sharma

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Dr. Pankaj Nanhera, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG Haryana.

Mr. Munish Gulati, Advocate for the complainant.

ALKA SARIN, J. (Oral)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.570 dated 12.10.2022 under Sections 376(2)(n), 451 and 509 of the Indian Penal Code, 1860 registered at Police Station Sector 10, Gurugram, District Gurugram.

2. On 03.01.2023 the following order was passed :

"CRM-50781-2022

The instant application has been filed under Rule 3-A (i) of Chapter VI, Part-B, Vol. V of the High Court Rules and Orders for grant of leave to file the present petition.

Application is allowed as prayed for.

CRM-M-61184-2022

The instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in case bearing FIR No.570, dated 12.10.2022 under Sections 376 (2)(n),

451 and 509 of the IPC (Annexure P-1) registered at Police Station Sector-10, Gurugram.

Learned counsel appearing on behalf of the petitioner inter alia contends that the FIR in question has been registered after delay of more than one and half months and that even though there is single allegation of the alleged physical intimacy and that offence under Section 376(2)(n) would not be made out. He further contends that prosecutrix in this case was already married and that as per her own case, her petition for seeking divorce was still pending consideration. There was, thus, no occasion for the petitioner to have allured the prosecutrix to subject herself to the offence as alleged. He further contends that no recovery is to be effected from the petitioner and that he is ready and willing to join the investigation as and when so required.

Notice of motion.

Mr. Vivek Saini, Addl. A.G. Haryana appears and accept notice on behalf of respondent-State.

To come up on 20.03.2023 for further consideration.

In the meantime, the petitioner is directed to join investigation as and when so required by the Investigating Agency. In the event of petitioner joining investigation, he shall be admitted to interim bail by the arresting officer/investigating officer on furnishing of bail bonds by him to the satisfaction of the arresting officer/investigating officer. The petitioner shall also abide by the conditions as specified under Section 438 (2) Cr.P.C.”

3. The matter was also referred to the Mediation and Conciliation Centre of this Court on the request of learned counsel for the parties, however, mediation is stated to have failed.

4. Learned counsel for the petitioner states that pursuant to order dated 03.01.2023, the petitioner has since joined the investigation and fully cooperated.

5. Learned counsel for the State on instructions from ASI Madhu has stated that the petitioner has since joined investigation and fully cooperated and that he is no longer required for further custodial interrogation as of now.

6. In view of the above, the order dated 03.01.2023 is made absolute. The petitioner shall, however, join investigation as and when called. The petitioner shall also abide by all the terms and conditions as specified under Section 438(2) of the Code of Criminal Procedure, 1973.

7. Disposed off accordingly. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

13.09.2023

jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO