

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

CRM-M-1707 of 2024

Gagan Kumar

.....Petitioner

Versus

State of Haryana

.....Respondents

Date of Decision: 12.01.2024

CORAM: HON'BLE MR. JUSTICE SUDEEPTI SHARMA

Present: Mr. Kiran Kumar Madan, Advocate for the petitioner.

SUDEEPTI SHARMA, J

Prayer is for grant of anticipatory bail in case FIR No.580 dated 10.12.2023 under Sections 376(2)(n),506,34 IPC registered at P.S Old Sabzi Mandi, Rohtak.

Facts leading to the present case in nutshell are that the petitioner was working as Physics Faculty with Target Coaching Institute in Rohtak. The complainant/prosecutrix being Science Graduate (B.Sc) also used to teach Chemistry along with the petitioner at the same Institute. Marriage of the petitioner and the complainant is stated to have been solemnized on 13.02.2023 at Bijnor (U.P) and out of the wedlock, two children were born, custody of whom is with the petitioner. Due to temperamental differences, the couple started staying separately.

On the basis of mutual consent, a petition under Section 13-B of the Hindu Marriage Act, 1955 (for brevity “the Act”) was filed by the parties on 05.04.2023 wherein statements of both the parties were recorded to the effect that reconciliation efforts had failed. The custody of the children

would remain with the father i.e petitioner and the complainant-wife would not claim any share in the property of the petitioner with all the articles having been exchanged between them. On 20.04.2023, both of them filed a joint application for waiving off the statutory waiting period of six months, which was allowed by the learned Family Court, Rohtak and a joint Second Motion statement of the parties was recorded in the petition filed under Section 13-B of the Act on 20.07.2023 (Annexure P.4). Vide judgment and decree dated 20.07.2023, decree of divorce, dissolving the marriage, on the basis of mutual consent was passed. Thereafter on the basis of complaint dated 26.10.2023 having been filed by the complainant-wife, instant FIR was registered against brother-in-law Shakun (nandoi) and other family members besides the petitioner.

As per the contents of the FIR, the petitioner obtained divorce under Section 13-B by threatening to kill the complainant and their children. It is further alleged in the complaint that after the decree of divorce also, the petitioner forcibly had physical relation with her (complainant) and the brother of the petitioner (Shakun) also prior to divorce raped the complainant by intimidating and threatening to kill. When the complainant told about this to the petitioner and in-laws, she was subjected to misbehaviour. Further allegation against the petitioner is that he used to put pressure on the complainant-wife not to meet her parents or other family members due to which she could not tell about the sexual assault to them.

Learned counsel for the petitioner contends that the complainant had herself decided to leave the company of the petitioner and only thereafter the decree of divorce was passed on a petition being filed with the mutual consent of both the parties. All the family members are roped in the complaint only with a view to harass and pressurize them.

In the facts and circumstances of the present case and perusing the allegations leveled against the petitioner, and considering the gravity of offence, this court is not inclined to grant anticipatory bail to the petitioner.

Dismissed.

January 12, 2024

(Sudeepti Sharma)

manoj

Judge

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No