



Rural, District Hoshiarpur, during the investigation the prosecutrix was produced on 22.09.2021 and her statement under Section 164 Cr.P.C. was recorded and her medico legal examination was also conducted, thereupon, an offence under Section 376 IPC was added. However, on 20.10.2022, an offence under the provisions of Section 376-D IPC was also added by way of DDR No. 36, dated 22.10.2022 as there were allegations of gang rape of the prosecutrix.

4. Learned counsel for the petitioner contends that the co-accused of the petitioner have been granted the concession of anticipatory bail, as per the orders dated 11.01.2023 and 17.03.2023 (Annexures P-4 and P-5) passed by the co-ordinate Bench of this Court in CRM-M-1274-2023 and CRM-M-13528-2023, respectively.

5. Learned counsel for the State has opposed the present petition while submitting that the allegations are very serious in nature. There are also allegations of gang rape and therefore, the petitioner does not deserve the concession of anticipatory bail.

6. I have heard the aforesaid submissions made by learned counsel for the parties.

7. Keeping in view the fact that the entire episode of events started at the instance of the present petitioner (Saife Deen) with whom the father of the prosecutrix initially agreed to solemnize marriage of the prosecutrix, as such, the petitioner is not entitled to parity with the co-accused Lal Hussain @ Bana and Hassan Deen, who have been granted the concession of anticipatory bail by the co-ordinate Bench of this Court (Annexures P-4 and P-5 respectively).

8.           There are allegations of gang rape against the petitioner and his co-accused. As per the FIR even the ‘*Panchayats*’ were conducted before registration of the FIR but the matter could not be compromised. There are also allegations that the petitioner had threatened the family members of the prosecutrix and the complainant that he would have to face the consequences in case he would interfere in solemnization of the marriage of the prosecutrix with the petitioner. As per the medical examination report, the possibility of the sexual intercourse has been pointed out.
9.           In view of the manner in which the alleged occurrence took and keeping in view the fact that the petitioner had taken the assistance of his co-accused and allegedly committed a gang rape upon the petitioner, it is not a fit case where the concession of anticipatory bail under Section 438 Cr.P.C. is granted to the petitioner.
10.           Consequently, the petition stands dismissed.
11.           However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.
12.           Pending miscellaneous application (s), if any, shall also stand disposed of.

April 08, 2024

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(HARPREET KAUR JEEWAN)

JUDGE

Whether Speaking

Whether reportable

Yes

No