

215 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-3015-2024
Date of decision: 4th March, 2024

Sudesh

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Rashika Bansal, Advocate for the petitioner.
Mr. Arjun Lakhanpal, Addl. A.G., Haryana.
Mr. L.K. Gollin, Advocate for respondent No.2.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 438 of Cr.P.C.
seeking anticipatory bail in FIR mentioned below:-

FIR No.	Police Station	Sections
302	Urban Estate, District Rohtak	498-A, 406, 323, 328, 354-A and 506 of Indian Penal Code, 1860 (for short 'IPC')

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the present FIR has been registered on 28.08.2023, on the basis of written complaint filed by respondent No.2-complainant Isha that she was married with co-accused Amarjeet, according to Hindu rites and ceremonies. Soon after marriage, her father-in-law used to do vulgar acts with her. She had filed a complaints at the police station several times, but her in-laws to get effected compromises at that time and used to take back

her to matrimonial house. On 24.07.2023, her father-in-law tried to commit some vulgar act with her and on her resistance, she was assaulted by her husband and mother-in-law i.e. the present petitioner. Her father-in-law caught hold her hands and the present petitioner forcibly made her consume All-Out, which is used for killing mosquitoes. She was also medically examined. She had given information to the police but only a kalandra under Sections 107 and 151 of IPC was registered and no other action was taken against her in-laws. She prayed for taking action against them. Accordingly, a case under Sections 323, 354-A, 406 and 498-A of IPC was registered. Investigation is going on.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that she has been falsely implicated in this case. Respondent No.2 had performed love marriage with her son in a temple, there was no question of her being harassed for demand of dowry arising. False allegations have been levelled against the petitioner. Infact, the victim herself had consumed All-Out, with a view to pressurize her in-laws. She had been quarreling with the petitioner and other family members, shortly after her marriage. Her husband i.e. son of the petitioner had filed a divorce petition and the present petition is an outcome of the same.

4. It will not be out of place to mention here that vide order dated 20.01.2024, the petitioner was directed to join the investigation.

5. Status report has been filed by respondent-State, as per which, she has joined the investigation on 25.01.2024.

6. Reply has also been filed by respondent No.2, alleging therein that the allegations levelled in the FIR are true. The victim was medically examined on 24.07.2023 itself. Medical report Annexure A-1 and FSL report Annexure A-2 prove that insecticide was detected in gastric lavage of the victim. She herself did not consume the same. There are chances of petitioner's misusing the concession of bail, if extended benefit of bail. The allegations against the petitioner are serious in nature. It is argued that she does not deserve to be given concession of bail.

7. I have heard learned counsel for the petitioner, learned State counsel as well as learned counsel for respondent No.2 at considerable length and have gone through the record carefully.

8. Undoubtedly, vide order dated 20.01.2024, the petitioner had been directed to join investigation and she has joined the same on 25.01.2024. Learned State counsel has also submitted that her custodial interrogation is no more required. However, it is submitted by him that she did not co-operate with the investigation. It is well settled proposition of law that the fact that mere custodial interrogation of person is not required is not a ground to extend benefit of bail to an accused. There are specific allegations that the petitioner had forcibly administered substance i.e. All-out which is used for killing mosquitoes to the victim. As per the FSL report, transfluthrin insecticide was detected in gastric lavage of the victim. In my considered opinion, thorough investigation is required to be conducted in the matter. The powers under Sections 438 of Cr.P.C. are to be exercised in extraordinary and sparing circumstances. The court is also required to see

that an order of anticipatory bail does not operate as inroad in the normal legal procedure of criminal cases by the trial Court. At the time of deciding such application, the Court has to consider the nature of offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses as well as larger public interest.

9. Keeping in view the nature of allegations, which have been levelled against the petitioner, the acts attributed to the petitioner and attendant facts and circumstances, I am of the considered opinion that no ground has been made out for extending benefit of pre-arrest bail to the petitioner. Hence, the petition is dismissed.

10. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

11. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

4th March, 2024
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No