

**Sr. No.102****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-5362-2022****Date of decision: 13th November 2024****BALVIR CHAND @ BALVIR PAL****.....Petitioner****versus****STATE OF PUNJAB****.....Respondent****CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Mahesh Sharma, Advocate
for the petitioner.

Mr. Davinder Bir Singh, Sr. DAG, Punjab.

Mr. Tushar Sharma, Advocate
for the complainant.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant first petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 seeking anticipatory bail in case FIR No.125 dated 08.12.2021, under Sections 354, 354-D, 506 IPC, 1860 (Section 376 IPC added later on), registered at Police Station Begowal, District Kapurthala, Punjab (Annexure P-1).

2. Learned counsel for the petitioner contends the petitioner is alleged to have committed rape upon the prosecutrix on 12.10.2021. However, there is no plausible explanation as to why the present FIR was registered after a delay of almost 08 weeks. It is further contended that the present FIR has been registered as a counter-blast to FIR No.126 dated 08.12.2021, which was registered on the same day in the same Police Station at the instance of the wife of the petitioner regarding the occurrence that took place on 02.12.2021. Learned counsel for the petitioner submits that the



3. On the other hand, learned counsel appearing on behalf of the complainant has opposed the bail application on the ground that the present FIR cannot be a counter-blast to the FIR (Annexure P-2) since the FIR No.125, lodged at the instance of the prosecutrix, was prior in time, whereas, the FIR No.126, lodged at the instance of the wife of the petitioner, is subsequent in time. It is further contended that the petitioner is continuously pressurizing the prosecutrix to effect a compromise and in this regard, a petition was also filed in this Court.

4. Learned State counsel, while referring to the status report dated 05.07.2023, filed by way of an affidavit of Sh. Sukhninder Singh, PPS, Deputy Superintendent of Police, Sub-Division Bholath, Kapurthala, with regard to the query of this Court dated 28.04.2023 as to whether any person/child has seen the petitioner dragging the prosecutrix at the backside of the college on 01.12.2021, has pointed out that upon verification it was found that no person/child has witnessed the said occurrence. It is further confirmed that as per the report of the Forensic Science Laboratory, Punjab dated 16.03.2023 (Annexure R-1), no human semen and male DNA was detected on the vaginal swabs of the prosecutrix.

5. I have heard the learned counsel for the parties and perused the relevant documents.

6. The present FIR was lodged at the instance of the prosecutrix with the allegations that on 01.12.2021, at about 7:30 AM, when she went for her morning walk, the petitioner dragged her on the back side of the college and tried to commit rape upon her by extending threats. It is further alleged that earlier on 12.10.2021, the petitioner had threatened the



7. As per the counter-FIR No.126, lodged at the instance of the wife of the petitioner (Annexure P-2), it is an allegation that the wife of the petitioner was abused and she was given slaps by the prosecutrix. The son of the prosecutrix is also alleged to have inflicted injuries to the wife of the petitioner with a baseball. The co-accused of the petitioner namely Karan is also alleged to have inflicted injuries with an iron '*Khurpa*' (an instrument of weeding). As per the FIR, the petitioner-Balvir Chand was admitted in Civil Hospital, Begowal and his injury report has been submitted in the Court today, which is taken on record.

8. It is not disputed that both the petitioner and the prosecutrix are living in the same street. There are allegations and counter-allegations, which are a matter of trial. The explanation about the delay in lodging the FIR with regard to the allegations of commission of rape, which allegedly took place on 12.10.2021, is also a matter of trial. The petitioner is ready to join the investigation.

9. Keeping in view the aforesaid facts and circumstances of the case, without making any comment on the merits of the case, the petition is allowed, subject to the following conditions:-

“(i) That the petitioner is directed to join investigation within a period of 07 days from today and thereafter as and when required, in that event the petitioner shall be released on bail upon his furnishing bail bonds for a sum of Rs.1,00,000/- with one surety in the like amount to the satisfaction of the Investigating Officer/SHO of the Police Station concerned.

(ii) That the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him



from disclosing such facts to the Court or to any police officer.

(iii) That the petitioner shall not leave India without the prior permission of the Trial Court/CJM concerned.

10. However, liberty is reserved in favour of the State/complainant to move for cancellation/recall of the order in case the petitioner violates any condition stipulated in this order and under Section 438 (2) Cr.P.C., or upon showing any other sufficient cause.

11. Pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

13th November 2024
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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>