



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

112+240

CRA-S-751-2024 (O&M)
Date of decision: 24.09.2024

NAVPREET SINGH

...Appellant

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. Samay Singh Sandhawalia, Advocate
for the appellant.

Mr. Kirpal Singh Thakur, AAG, Haryana.

Mr. Abhinav Aggarwal, Advocate
for respondent No.2.

HARPREET KAUR JEEWAN, J.

1. Prayer in the present appeal is for setting aside the order dated 16.02.2024 passed by the learned Additional Sessions Judge, Kurukshetra, whereby the application for anticipatory bail filed by the appellant in FIR No.25 dated 01.02.2024 under Section 376(2)(n) of the IPC and Section 3(2)(V) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short the '*Act of 1989*') registered at Police Station City Thanesar, District Kurukshetra, has been dismissed.
2. Perusal of the paper-book reflects that as per the allegations, the appellant had committed rape upon the prosecutrix several times with assurance that he would marry her. The appellant met the prosecutrix for the first time, in



September, 2022 in the office of Immigration services, where the appellant was working as employee. It is further an allegation that the appellant became friendly with the prosecutrix; started relationship with her and also allured her to enter into a serious relationship on the assurance that he would get married to her. The appellant is alleged to have agreed to marry the prosecutrix on several occasions and he also went to Gurdwara along with the parents of the prosecutrix but ultimately the marriage was not solemnized. The FIR was registered on 01.02.2024 and subsequently the prosecutrix levelled additional allegations that the appellant had also made casteist allegations on 09.02.2024.

3. Learned counsel for the appellant *inter alia* contends that there are no allegations of attracting the offence under the Act of 1989. In fact, the appellant had entered into a contractual marriage, having paid a sum of ₹4,00,000/- to the complainant to sponsor her education as the appellant wanted to visit abroad and the complainant is a citizen of Canada.

3.1 It is further contended that despite the above, the complainant became greedy and started demanding more money from the appellant and also refused to give back the money that she had already received. It is also submitted that when the appellant refused not to give more money and to go abroad, the present FIR has been registered against him.

3.2 Reference of the transcript of the conversation between the appellant and the complainant has been contained in the pen drive (Annexure A-2) and reference regarding the payments (Annexure A-3) has also been made in this regard.

4. Learned State counsel, on instructions, from DSP Om Parkash has informed that the investigation is complete; final report under Section 173 Cr.P.C.

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has also been prepared and will be shortly submitted in the Court. The appellant has joined the investigation in terms of the order dated 18.03.2024 passed by this Court and his further custodial interrogation is not required.

5. On the other hand, learned counsel for respondent No.2 contends that the appeal is not maintainable in view of bar under Section 18 and 18-A of the Act of 1989. It is further alleged that the contract for marriage, which is alleged by the appellant, is not placed on record and even the alleged payment of Rs.4 lakhs is not made. He further contends that in fact the appellant had taken a sum of Rs.4 lakhs from the complainant, which was withdrawn by the sister of the complainant and paid to the appellant. Referring to the copy of the passport (Annexure C-3), learned counsel for respondent No.2 submits that the complainant is neither resident of Canada nor did she ever visited Canada. The appellant had agreed to solemnize marriage with the prosecutrix, which is evident from the 'Whatsapp' chat (Annexure C-8).

6. Per contra, learned counsel for the appellant referring to the typed transcript audio call detail contained in pen drive (Annexure A-2) submits that it was merely a contractual relationship.

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

8. The FIR was registered on 01.02.2024. Neither the caste related allegations regarding were levelled at the time of registration of the FIR nor in the statement recorded under the provisions of Section 164 Cr.P.C. before the Magistrate on 06.02.2024. The same were levelled by the complainant after 08 days of the registration of the FIR in her statement recorded under Section 161 Cr.P.C.



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9. In view of the ratio of the decision of Hon'ble the Apex Court in Prathvi Raj Chauhan Vs. Union of India and others, reported as 2020(4) SCC 727, and Hitesh Verma vs. State of Uttarakhand reported as 2020 (4) RCR (Criminal) 868, in such like situation, the bar under Sections 18 and 18-A of the Act of 1989 would not apply.

10. Both, the appellant and the complainant are major. It would be a matter of trial as to whether the relationship between the appellant and the complainant was under force or duress.

11. Keeping in view the aforesaid facts and circumstances; in view of the reasons recorded in the order dated 18.03.2024, and in view of the fact that the appellant has joined the investigation; his custodial interrogation is not required; the allegations and counter-allegations between the appellant and the complainant are matter of trial, investigation is complete and final report under Section 173 Cr.P.C. has already been prepared, as such, the present appeal is allowed and the order dated 18.03.2024, granting interim bail to the appellant is made absolute, subject to the conditions laid down under Section 438(2) Cr.P.C.

12. It is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

13. All the pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

24.09.2024
P.Bhatt/nitin

Whether speaking/reasoned	Yes
Whether reportable	No