

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-10176-2024

Date of decision: 02.04.2024

Rinku Singh

....Petitioner

V/s

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rajiv Kumar Saini, Advocate for the petitioner.
Ms. Priyanka Sadar, AAG Haryana.
Mr. Tajinder Singh, Advocate for
respondent No.2-complainant.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 438 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for grant of anticipatory bail to the petitioner in case FIR No.317 dated 01.12.2023, under Sections 376(2)(n), 506 of IPC registered at Police Station Sector 14, Gurugram.
2. On 27.02.2024 the following order was passed:-

“Apprehending his arrest in FIR No. 317 dated 01.12.2023 registered for offences punishable under Sections 376(2)(n),506 IPC at Police Station Sector 14, Gurugram; the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

*Inter alia contends that the petitioner and the complainant were in a consensual live-in-relationship for a long period; the petitioner was unable to fulfill the promise of marriage with the complainant on account of supervening circumstances & the petitioner is willing to join investigation and cooperate therein. To buttress his arguments, learned counsel for the petitioner has placed reliance upon the ratio of the judgment of the Hon'ble Supreme Court in case of "**Pramod Suryabhan Pawar versus The State of Maharashtra & Anr.**" 2019(4) R.C.R. (Criminal) 135, relevant whereof reads as under:*

"18. To summarise the legal position that emerges from the above cases, the "consent" of a woman with respect to Section 375 must involve an active and reasoned deliberation towards the proposed act.

To establish whether the "consent" was vitiated by a "misconception of fact" arising out of a promise to marry, two propositions must be established. The promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the time it was given. The false promise itself must be of immediate relevance, or bear a direct nexus to the woman's decision to engage in the sexual act."

Notice of motion.

On asking of the Court, Ms. Mahima Yashpal, DAG, Haryana appears and accepts notice on behalf of the respondent-State.

Adjourned to 02.04.2024.

The petitioner is directed to appear before the Investigating Officer on 01.03.2024 at 11:00 A.M. in concerned Police Station and join investigation. In the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal/surety bond(s) to the satisfaction of the Arresting Officer/Investigating Officer. As and when further called by Investigating Officer, the petitioner shall join the investigation. He shall abide by the condition(s) enumerated under Section 438(2) of the Cr.P.C."

3. Learned State counsel, on instructions from ASI Anita, has stated that pursuant to the order dated 27.02.2024, the petitioner has joined investigation and is no longer required for custodial interrogation.

4. Learned counsel for respondent No.2-complainant has vociferously opposed the grant of anticipatory bail to the petitioner by arguing that the allegations made against the petitioner are serious in nature and hence he ought not to be granted the concession of anticipatory bail. He has further argued that the complainant is in family way as a result of the relationship between the petitioner and the victim & the petitioner is now not willing to undertake that responsibility

5. In view of the above, the interim order dated 27.02.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

6. This order should not be treated as “blanket” order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned ibid and will not operate in respect of any other incident that involves commission of an offence.
7. Liberty is reserved in favour of State/complainant to move for cancellation/recall of this order in case the petitioner violates any condition stipulated under Section 438(2) Cr.P.C., 1973 or upon showing any other sufficient cause.
8. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.
9. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

April 02, 2024
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No