



Sr. No.203

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-11965-2024
Date of decision: 17th September 2024

SUMIT**Petitioner**

versus

STATE OF HARYANA AND ANOTHER**Respondents**

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Rishabh Chaudhary, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana,
assisted by ASI Neelam.

Mr. Anurag Kohli, Advocate for
Mr. Sanjay Kumar Saini, Advocate
for respondent No.2.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973, for grant of anticipatory bail to the petitioner in case FIR No.02 dated 16.01.2024, under Sections 376(2)(n), 406, 506 IPC, 1860, registered at Women Police Station, District Rohtak (Annexure P-1).

2. On 19.04.2024, following order was passed by this Court:-

“xxx xxx xxx xxx

2. *Learned counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in this case. It was a consensual relationship and the complainant had never opposed for physical relationship before registration of the FIR which is evident from the photographs (Annexure P-3), as well as from the telephonic conversation inter se the complainant and the father of the complainant (Annexure P-4). The present FIR was registered only on*



the day when the marriage of the petitioner got fixed on 16.01.2024 with someone else as per the marriage card (Annexure P-5).

3. *Notice of motion.*

4. *On advance notice, Mr. Amrik Singh Narwal, D.A.G. Haryana, appears on behalf of the respondent-State.*

5. *A status report, dated 20.03.2024, by way of an affidavit of Sh. Virender Singh, H.P.S. Deputy Superintendent of Police, Crime Against Women, Rohtak, along with a copy of the MLR and the Doctor's opinion as Annexures R-1 and R-2 has already been filed by learned State counsel.*

6. *Learned counsel for the State, upon instructions from ASI Neelam, has confirmed that during the investigation no medical evidence has been found regarding the termination of medical pregnancy, as alleged in the FIR.*

7. *He further informed that the medical examination of the victim (Annexure R-1) was conducted, as per which the doctor at Civil Hospital, Bhiwani, who conducted the medical examination sought gynaecologist opinion for P/S evidence of intercourse, state of hymen and evidence of abortion and further management. The investigating officer had given a specific application seeking the medical opinion regarding the allegations contained in the FIR and as per the report dated 20.03.2024 [both are (Annexure R-2)], the complainant did not go to the PGIMS, Rohtak as referred by gynecologist.*

8. *Adjourned to 13.05.2024.*

9. *Keeping in view the aforesaid facts and circumstances of the present case, the petitioner is directed to join investigation within ten days and in the event of arrest, he shall be released on interim bail, to the satisfaction of the arresting officer/Area Magistrate, subject to his furnishing bail bonds and surety bonds, and also subject to the following conditions:-*

(i) That the petitioner shall further make himself available for interrogation by a police officer as and when required.



(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.”

3. Learned counsel for the petitioner contends that the petitioner has joined the investigation in compliance of the aforesaid order dated 19.04.2024.

4. Learned State counsel, on instructions from ASI Neelam, confirms that though the petitioner has joined investigation, however, recovery of Rs.6 lakhs and gold ornaments is yet to be effected from him.

5. Learned counsel for respondent No.2 has also opposed the present petition on the ground that recovery is yet to be effected from the petitioner.

6. I have considered the aforesaid contentions and perused the relevant documents.

7. The petitioner is 33 years of age and the prosecutrix is 35 years of age. As per the copy of the Medico Legal Report of the complainant dated 16.01.2024, the first episode of alleged sexual abuse was in August 2019, whereas, the last episode was on 26.12.2023. There is no external injury on the person of the prosecutrix. The prosecutrix is major. Merely on the ground of non-recovery of the amount, which is alleged to have been taken by the petitioner from the prosecutrix, the relief under Section 438 Cr.P.C. cannot be declined to the petitioner.

8. Keeping in view the above facts and in view of the reasons recorded in the order dated 19.04.2024 as also the fact that the petitioner has joined investigation and his further custodial interrogation is not required by the Investigating Agency, the present petition is allowed and the order dated



19.04.2024, granting interim bail to the petitioner is made absolute, subject to the conditions laid down under Section 438(2) Cr.P.C.

9. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

10. Liberty is reserved in favour of the State/complainant to move for cancellation/recalling of the order in case the petitioner violates any condition stipulated 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

17th September 2024
simran

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