

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.14394 of 2024
Date of decision: 29.04.2024

Javed @ Aaved Ali

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Diwan S.Adlakha, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana
for the respondent-State.

Mr. Davneet Sangwan, Advocate,
for respondent No.2.

MANISHA BATRA, J.

1. The present petition has been filed by the petitioner under Section 438 of Cr.P.C. seeking pre arrest bail in case arising out of FIR No.7 registered under Sections 376 (2) (n), 313, 328, 385 and 506 of IPC at Police Station Women Police Station, Yamuna Nagar, District Yamuna Nagar.

2. Shorn of unnecessary details, the facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR

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was registered on 09.02.2024 on the basis of written complaint filed by respondent No.2 alleging therein that she worked as a receptionist at some hospital in Yamuna Nagar from the year 2021 to December 2022. At that time, the petitioner was working as nursing staff in another hospital of Yamuna Nagar. Intimacy had been gradually developed between them and they used to conversate with each other. The petitioner gave a proposal to marry her. He even started visiting her house and met with her parents. She alleged that in the month of February 2022, she was alone at home when the petitioner reached there. He had brought some cold drinks and food items with him and made the complainant consume that cold drink which was laced with some stupefying substance due to which, she became unconscious and taking advantage of her condition, he ravished her and captured photographs in his mobile and also prepared some video recording. Thereafter, he started blackmailing her, on the basis of those photographs and videos and repeatedly ravished her due to which she had become pregnant. She apprised about this fact to the petitioner and insisted to marry with her but he started avoiding her on which she talked to his parents who assured to get her marriage performed with the petitioner subject to the condition that she would abort her pregnancy. The prosecutrix refused to do so but the petitioner in collusion with his parents administered some medicine mixed with food to her due to which she suffered a miscarriage.

3. As per the further allegations, the petitioner told the prosecutrix that he would perform marriage with her in the year 2023 but on the

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condition that she would firstly complete D Pharma course. The prosecutrix even completed that but thereafter, he bluntly refused to marry her after extorting a sum of Rs.2.5 lacs from her. The investigation is underway. The petitioner had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Yamuna Nagar which was dismissed vide order dated 05.03.2024.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. Offence under Section 313 of IPC has been deleted during investigation. There is delay of more than two years in reporting the matter to the police. There are vague allegations against the petitioner. It is highly improbable that the prosecutrix who is an adult female aged 24 years was subjected to repeated rape against her wishes but did not make any complaint to anybody. Infact, the prosecutrix wanted to solemnize marriage with him but he had refused to do so. He had borrowed some amount of money from the prosecutrix but the same had been returned to her subsequently. It was the prosecutrix who had fallen in love with him and had compelled her to solemnize marriage with her. The petitioner had come to know about her relationship with other boys as well and when he confronted her with the same and had broken up with the prosecutrix after refusing to solemnize marriage, then by way of revenge, she had involved him in this case. It was a case of consensual relationship between them at the most. His custodial interrogation is not required. No recovery is to be effected from him. He has no criminal antecedents. He is ready to join the

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investigation. Therefore, it is argued that he deserves to be given benefit of pre arrest bail.

5. Status report has been filed by respondent No.1, as per which, specific and serious allegations have been levelled by the prosecutrix against the petitioner. It is affirmed that the offence under Section 313 of IPC was deleted as against the petitioner. Learned State counsel assisted by learned counsel for respondent No.2 have argued that there are chances of petitioner's absconding if extended benefit of pre arrest bail. His parents are also yet to be arrested. His custodial interrogation is required for conducting thorough investigation in the matter. Therefore, it is argued that the petition does not deserve to be allowed.

6. I have heard learned counsel for the petitioner and learned State counsel assisted by learned counsel for respondent No.2 at considerable length and have gone through the record carefully.

7. The petitioner is alleged to have firstly induced the prosecutrix to become intimate with him on the pretext of making promise to marry her and thereafter he is alleged to have ravished her for the first time in February 2022 by making her consume some stupefying substance mixed with some cold drink brought by him to her house, when she was alone. As per the further allegations, he also ravished her subsequently, captured her objectionable photographs and prepared videos and on the basis of the same, he started exploiting the prosecutrix physically as well as financially and at the same time kept on making promise to marry her. The well settled proposition of law is that while considering an

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application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses and likelihood of fleeing justice. The Courts are required to be guided by consideration such as nature and gravity of the offences, the role attributed to the applicant and the facts of the case, while considering whether to grant anticipatory bail or refuse it and it is a matter of discretion to grant or not to grant bail. Reference in this context can be made to **Sushila Aggarwal and others v. State (NCT of Delhi)**, (2020) 5 SCC 1 wherein the Hon’ble Supreme Court had observed so. Applying the aforementioned conditions to the present case and keeping in view the nature of the offence alleged to have been committed by the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances but without meaning to make any comment on the merits of the case, I am of the considered opinion that for conducting thorough investigation in the matter, custodial interrogation of the petitioner is required. More so, no sparing or extraordinary circumstance has been made out entitling him to seek concession of pre arrest bail as a matter of right. Accordingly, the petition is dismissed.

(MANISHA BATRA)
JUDGE

29.04.2024
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No