

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-20428-2023
Date of decision: 12th February, 2024

Aman Kumar @ Prince

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. V.K. Thakur, Advocate for the petitioner.
Ms. Ruchika Sabherwal, DAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 438 of Cr.P.C.
seeking anticipatory bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
63	05.04.2023	Sadar Ludhiana, District Police Commissionerate Ludhiana	376-D, 342, 328, 354, 323, 420, 406 and 120-B of Indian Penal Code, 1860 (for short ‘the Act’)

2. The relevant facts in brief for the purpose of disposal of this petition are that on 05.04.2023 on receipt of a call at the police station from Civil Hospital, Ludhiana regarding admission of the prosecutrix ‘M’ (name withheld) there, a police party headed by Inspector Sandeep Kaur reached there and after obtaining opinion of doctor regarding condition of the victim, recorded her statement to the effect that she was working as a Sweeper in Gosy Gill Corporation and from the past two and half years was living in an

apartment (name withheld). She alleged that the accused Manpreet Singh, his wife Raman, Sabar Ali and one Prince (who was mentioned by her as son of Kuku aunty) were also living in another block of the same apartment. She alleged that all four of them used to come to her apartment and sexually harassed her. Accused Sabar Singh and Manpreet Singh had been administering some drugs to her from last two years and they were also doing wrong acts with her by keeping her confined in her apartment. The accused Manpreet Singh also used to take her to her office every month for getting her salary withdrawn which was kept by himself. She also came to know that the accused Manpreet Singh had even taken loan in her name on the basis of her salary.

3. It was further disclosed by her that it was only on the previous day that she was got released by Zone Commissioner as well as some police officers who came to her apartment with some journalists and had got her admitted in the hospital. On the basis of her statement and after registration of FIR, investigation proceedings were initiated. As per the medico legal examination, report of the victim, some injuries were found on her person. Her psychological assessment was also got made. However, she was not found to be suffering from any mental disease. The statement of prosecutrix was also got recorded under Section 164 of Cr.P.C., wherein she levelled allegations against the accused and also stated that she used to pay to accused-Prince a sum of ₹2,000/- for the purpose of marking her attendance in the record of Municipal Corporation, Ludhiana. The co-accused Manpreet Singh, Raman and Sabar Singh were apprehended on 06.04.2023. They were

interrogated and suffered a disclosure statement admitting their involvement in the subject crime and also took the name of one Deepak Kumar. They also disclosed that the presence of victim was manipulated in the attendance record of Municipal Corporation, Ludhiana with the involvement of the present petitioner who served there as Numberdar and though the victim did not go to work as a sweeper but the petitioner was given a sum of ₹7,500/- for falsely recording her presence in the record. It was also disclosed that accused Manpreet Singh had taken a loan of ₹1,50,000/- by using the salary of the complainant for collateral purposes. It was also submitted that petitioner being an accomplice in the devious designs of the other accused, was not entitled to seek any concession of bail.

3. It is relevant to mention here that on receiving notice of the instant petition, the State had filed three status reports. In the Status report, firstly, filed on 10.08.2023, submitting therein that the psychological assessment of the victim was got conducted by board of doctors of Guru Gobind Singh Medical College and Hospital, Department of Psychiatry Faridkot on 19.07.2023 and as per the report submitted by the Board, no symptoms of depression, anxiety and psychosis or any other psycho pathology were found and she was not suffering from any mental disease. The second status report was submitted on 30.11.2023, wherein it was submitted that the petitioner who had secured a job as as sweeper in Municipal Corporation on compassionate basis in the place of her deceased mother, had been residing at some Apartments at Mankwal from last two and half years. It was also submitted that the accused Manpreet Singh and Sabar

Singh had been sexually harassing her from the past two years after administering some intoxicating substances to her and locking her inside her flat. Some old injuries were found on her. Her statement was recorded under Section 164 Cr.P.C. wherein she had levelled certain additional allegations against the accused persons. As per the status report, the accused Manpreet Singh, Raman Kaur and Sabar Singh were apprehended on 06.04.2023. In the third status report as filed by respondent No.1-State today in the Court, it has been mentioned that name of Prince which was mentioned by the prosecutrix as a person who was son of one Kuku aunty was not infact the present petitioner and was some other person. As per this report, the allegations which are levelled against the present petitioner in this case are with regard to marking of presence of the complainant in wrong manner in the record of Municipal Corporation, Ludhiana. It is also submitted that the allegations that the accused Prince (son of Kuku aunt) alongwith other accused used to sexually harass the victim were not against the present petitioner.

4. Learned State counsel has also argued that infact, since the present petitioner is known by the name of Aman as well as Prince, therefore, while conducting investigation and while filing challan report, he is also shown to have committed the offences punishable under Sections 376-D, 354, 342, 328 etc as against the prosecutrix whereas infact he is booked for offences punishable under Sections 406 and 420-B read with Section 120-B of IPC.

5. The present petition has been filed by the petitioner on the

grounds and it is argued by his counsel that he has been falsely implicated in this case. He has been staying at a distance of about five kilometers away from the house of the prosecutrix and the co-accused. He has been working as a Safai Sewak and his services have been recently regularized. He has been made a scapegoat to save higher officials of the municipal corporation on the allegations that he used to mark the attendance of the prosecutrix after receiving an amount of ₹2,000/- per month. His custodial interrogation is not required. He has already joined the investigation. Therefore, it is argued that the petition deserves to be allowed.

6. Learned State counsel has argued that the petitioner was working as a Numberdar/Safai Sewak in the Municipal Corporation, Ludhiana, and in connivance with the co-accused he used to mark the attendance of the prosecutrix who too was working as a Sweeper in the Municipal Corporation, and in lieu thereof a sum of ₹2000/- were given to him by the co-accused and therefore, he has argued that the allegations against him might not be of subjecting the victim to rape or wrongfully confining her but the same are equally serious in nature in view of the fact that he had been manipulating the record of the Municipal Corporation for causing wrongful loss to the department and for his wrongful gain. It is further argued that though he has joined the investigation but his custodial interrogation is required for the purpose of thorough investigation in the matter. Hence, it is argued that petition does not deserve to be allowed.

7. I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record carefully.

8. It is own claim of the petitioner that he was working as a Safai Sewak in the Municipal Corporation, Ludhiana and the prosecutrix who has unfortunately died by now was also working there. The allegations against him are that he in connivance with the co-accused used to mark the attendance of the prosecutrix in the record and thereby helped the co-accused in getting the salary of the prosecutrix withdrawn even despite her remaining continuously absent from duty. It had also come on record that he was also working as a Numberdar in the Municipal Corporation and as submitted by himself in the petition, now he is working as Sanitary Inspector and is an educated person being a diploma holder in civil engineering, meaning thereby that he was well aware of the fact that a wrong act was being committed by him by manipulating the government record. In view of the discussion as made above, it emerges that though no case for commission of offences punishable under Sections 328, 342, 354 and 376 of IPC has been made out against the present petitioner. However, there is a *prima facie* case on record that he had hatched the conspiracy with the co-accused and in pursuance of the same, he being an employee of Municipal Corporation, Ludhiana, used to manipulate/tamper with the attendance record of the employees of the corporation by recording the presence of the victim in the said record for the purpose of his wrongful given and for causing loss not only to the victim but also to the government and thereby cheated his own department as well as the victim and had also criminally misappropriated the money/amount from salary of the victim which was payable to her and was government money. As such, his complicity in the

commission of offence punishable under sections 406 and 420 read with Section 120-B of IPC cannot be ruled out. For conducting thorough investigation of the matter, the custodial interrogation of the petitioner is certainly required. It is well settled proposition of law that powers under Section 438 of Cr.P.C. are to be exercised in extraordinary and sparing circumstances. However, no such circumstance has been made out in this case. More so, it is equally well settled proposition of law that custodial interrogation of a suspected person is of tremendous advantage in disinterring many useful information. The custodial interrogation is qualitatively more elicitation oriented than questioning a suspect which is well ensconced with a favourable order under Section 438 of Cr.P.C.

9. Keeping in view the nature of allegations, which have been levelled against the petitioner, the acts attributed to the petitioner and attendant facts and circumstances, I am of the considered opinion that no ground has been made out for extending benefit of pre-arrest bail to the petitioner. Hence, the petition is dismissed.

[MANISHA BATRA]
JUDGE

12th February, 2024
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No