

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

207

CRM-M-20738-2024

Date of Decision: 16.07.2024

Sohan Lal

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Rahul Aggarwal, Advocate for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 438 Cr.P.C. seeking anticipatory bail in FIR No. 15 dated 04.08.2023, registered under Sections 376, 506 and 120-B IPC at Police Station GRP Abohar, Government Railway Police, District Fazilka.

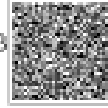
On 22.05.2024, when this case was listed for hearing, following order was passed by this Court:-

“Present is the first petition filed under Section 438 Cr.P.C. seeking grant of anticipatory bail to the petitioner in case FIR No.15 dated 04.08.2023 under Sections 376, 506 and 120-B IPC registered at Police Station GRP Abohar, Govt. Rly Police, District Fazilka (Annexure P1).

2. On the last date of hearing, following order was passed:-

“Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.0015 dated 04.08.2023 (Annexure P-1), under Sections 376, 506 and 120-B IPC, registered at Police Station GRP Abohar, Govt. Railway Police, District Fazilka.

Learned counsel for the petitioner inter alia submits that in the present FIR there are five accused, named



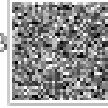
by the prosecutrix, two of whom are women. It is stated that the prosecutrix has admitted in the FIR that she had a monetary dispute with the other four accused, named in the FIR, except the petitioner. It is stated that accordingly, the petitioner has nothing to do with the present dispute and he has been falsely implicated in the FIR. It is further submitted that there is an unexplained delay in registration of the present FIR as the incident took place on 03.08.2023 at 09:00 pm, whereas, the FIR has been registered on 04.08.2023 at 09:45 pm. It is further stated that the petitioner is 70 years old and therefore the allegation of sexual assault made against him, is on the face of it, improbable. Learned counsel for the petitioner prays for grant of interim relief to the petitioner and undertakes that the petitioner will join the investigation and co-operate with the Investigating Agency.

Notice of motion.

On asking of the Court, Mr. Kunwarbir Singh, AAG, Punjab accepts notice on behalf of respondent-State and opposes the prayer for grant of interim relief to the petitioner. Learned counsel for the State refers to the vernacular of the present FIR and submits that the translation (Annexure P-1) is not an accurate copy as in the vernacular it has been clearly mentioned by the prosecutrix that she was 'raped' by the petitioner; whereas in the present translation (Annexure P-1) it has only been mentioned that she was sexually assaulted by the petitioner. Learned counsel submits that the FSL Report has been received in the present case, which is positive and semen has been detected on the exhibits/clothes submitted by the prosecutrix. Copy of the Forensic DNA Test Report is placed on record. Learned counsel further states that there is only 12 hours' difference from the time of incident to the time of medical examination of the prosecutrix. Learned counsel seeks time to file detailed status report alongwith MLR of the prosecutrix in the matter.

Adjourned to 22.05.2024."

3. *Learned counsel for the petitioner, inter alia, submits that the petitioner is 70 years of age and as such, the allegations of sexual assault made against him are on the face of it not believable. Learned counsel submits that as per the FIR, it has been alleged that the victim/complainant was dragged into the shrubs by the accused including the petitioner; whereupon rape was committed upon her. It is submitted that however, as per the MLR (Annexure R1), the only injuries received on the person of the victim are two*



abrasions on her forearm; and as such, the allegations of the complainant are belied.

4. Learned counsel further submits that in the FIR, the complainant has named total five accused and has stated that one 'Jita' and Sukhchain Singh had caught hold of her husband; whereas in her statement under Section 164 Cr.P.C. (Annexure R2/T), the complainant has stated that in all, there were three persons present, and two persons namely Sukhchain and 'Deepa' had held her husband while the petitioner committed rape upon her. It is submitted that accordingly, there are glaring discrepancies in the case put forth by the complainant.

5. Learned State Counsel files status report dated 22.05.2024 by way of affidavit of Jagmohan Singh, PPS, Deputy Superintendent of Police, Govt. Railway Police, Punjab, Sub-Division, Ferozepur, which is taken on record and copy of the same is supplied to counsel opposite. Learned State Counsel on instructions submits that in actual fact, the name 'Deepa' has been perhaps inadvertently wrongly mentioned in the statement of the victim under Section 164 Cr.P.C. (Annexure R2/T) and the same is a typographical error. It is submitted that the FSL has come positive and further DNA sample was not provided.

6. Adjourned to 16.07.2024.

7. In the meantime, the petitioner is directed to appear before the SHO/Investigating Officer to join investigation and in the event of his arrest, he shall be released on bail on his furnishing bail bonds to the satisfaction of SHO/Investigating Agency subject to the following conditions as envisaged under Section 438(2) Cr.P.C.:-

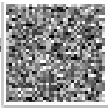
i) that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required;

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/her from disclosing such facts to the Court or to any police officer;

iii) that the petitioner shall not leave the country, without prior permission of the Court and shall surrender his passport, if any."

Learned counsel for the petitioner submits that in compliance of the order dated 22.05.2024 the petitioner has joined the investigation.

On instructions from ASI Naseem, learned counsel for the



State submits that in terms of the order passed by this Court, reproduced above, the petitioner has joined the investigation on 11.06.2024 and is co-operating with the investigating agency, and no further interrogation is required, at this stage.

In view of the above, the order dated 22.05.2024 is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join the investigation and co-operate with the investigating agency in case he is required for the same in future as and when called upon to do so.

In case, at any given point of time hereinafter, it is felt by the investigating agency that the petitioner is required for the investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

Pending application(s), if any, shall also stand disposed of.

16.07.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No