

**CRA-S-1028-2022 (O&M)****- 1 -****229 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRA-S-1028-2022 (O&M)****DATE OF DECISION : 24.05.2024****NEERAJ KUMAR****... APPELLANT****V/S****STATE OF HARYANA AND OTHERS****... RESPONDENTS****CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Kunal Dawar, Advocate for the appellant.
Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.
Mr. Govind Chauhan, Advocate for respondent Nos.2 and 3.

*** * * *****HARPREET KAUR JEEWAN, J. (ORAL)**

1. This is an appeal against order dated 25.05.2022 passed by the learned Addl. Sessions Judge, Faridabad, whereby an application filed by the appellant seeking anticipatory bail in FIR No. 42 dated 10.02.2018 under Sections 376, 506 IPC, Section 6 of Protection of Children from Sexual Offences Act and Section 3/33/89 of Schedule Caste and Scheduled Tribes (Prevention of Atrocities) Act at Police Station Chhainsa Faridabad has been dismissed.

2. On 18.08.2022 following order was passed:

“Status report filed by the State is ordered to be taken on record. A copy thereof has been supplied to learned counsel for the petitioner who prays for time to go through the same and then make submissions.

For arguments, adjourned to 16.01.2023.

Seeking ad-interim bail, learned counsel for the appellant inter alia contends that the appellant has been falsely implicated in this case when the consensual relations between the appellant and the complainant turned sour; the appellant has no other criminal case pending against him; on 31.01.2018, the prosecutrix had appeared before the concerned Illaqa Magistrate and stated that the appellant and the prosecutrix could not get married due to the prevalent customs as they belong to the same village and



therefore, exonerated the appellant of all accusations of raping her on the pretext of false promise of marriage; the appellant had filed a quashing petition before this Court in which the complainant had consented to the acceptance of the appellant's prayer but the petition was withdrawn as the FIR in question could not be quashed on the basis of a compromise as it was under Section 376 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012; the FIR in question was lodged four years ago and during such period the appellant has always been available to the investigating agency; in the meanwhile, the prosecutrix got married to some other gentleman and unfortunately, during child birth she has died and that the appellant is also ready and willing to join and cooperate with the investigation.

After considering the afore submissions, it is directed that subject to the petitioner's joining investigation as and when called by the investigating agency as also abiding by the other conditions provided under Section 438 (2) Cr.P.C, in the event of his arrest in FIR No.42 dated 10.02.2018 registered under Section 6 of Protection of Children from Sexual Offences Act, 2012 and Sections 3, 33 and 89 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Chhainsa, Faridabad, he shall be released on ad interim anticipatory bail to the satisfaction of the Arresting Officer.”

3. Learned counsel for the appellant contends that the appellant has joined the investigation in compliance of the order passed by the Co-Ordinate Bench of this Court..

4. Reliance has been placed upon the latest judgments of Hon'ble the Supreme Court in Prithvi Raj Chauhan Vs. Union of India and others, reported as 2020(4) SCC 727, and Hitesh Verma vs. State of Uttarakhand reported as 2020 (4) RCR (Criminal) 868, to contend that in such like situation, the bar under Sections 18 and 18-A of the Act of 1989 would not apply.

5. Reliance has also been placed upon the judgment of Co-ordinate Bench of this Court in CRM-M-30576-2002 decided on



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01.08.2002 titled as "Jagir Chand vs. State of Punjab" as well as in CRM-M-3956-2020 decided on 27.02.2020 titled as "Baljinder Kaur vs. State of Punjab" to contend that if the ingredients of the provisions of the Act are not met with, then the bar under Section 18 of the Act of 1989 cannot come in the way of the appellant being granted the concession of anticipatory bail.

6. Learned State counsel has also confirmed that the appellant has joined investigation. State counsel further informs that custodial interrogation of the appellant is not required.

7. Learned counsel appearing on behalf of respondent Nos. 2 and 3 has stated that he has no objection if the anticipatory bail of the appellant is allowed.

8. In view of the reasons recorded in the order dated 18.08.2022 and in view the aforesaid facts, the present appeal is allowed and the order of dismissal of bail application on behalf of the appellant dated 25.05.2022 passed by the learned Addl. Sessions Judge, Faridabad is set aside and order dated 18.08.2022 granting interim bail to the appellant is made absolute, subject to the conditions laid down in 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. However, liberty is reserved in favour of the State/complainant to move for cancellation/recalling of the order in case the appellant violates any condition stipulated under Section 438 (2)

Cr.P.C., or upon showing any other sufficient cause.



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11. All the pending miscellaneous applications, if any, shall stand disposed of.

24.05.2024 (HARPREET KAUR JEEWAN)
Janki JUDGE

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