

CRM-25796-2024 in/and
CRM-M-23714-2024

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2024:PHHC:081171



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

102+204

CRM-25796-2024 in/and
CRM-M-23714-2024

Date of Decision: 01.07.2024

Akshay Kaundal

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Vaibhav Narang, Advocate for the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

Mr. Abhimanyu Singh, Advocate
for the applicant/complainant.

NIDHI GUPTA, J. (ORAL)

CRM-25796-2024

Prayer in this application filed under Section 482 Cr.P.C. is
for impleading the applicant/complainant herein as respondent No. 2.

Notice of the application.

On the asking of Court, Mr. Vaibhav Narang, Advocate
accepts notice on behalf of the petitioner, whereas Ms. Guramrit Kaur,
Deputy Advocate General, Punjab, accepts notice on behalf of
respondent-State.

Heard.

For the reasons stated in the application, which is supported



by an affidavit, the same is allowed and the complainant is hereby impleaded as respondent No. 2. Amended memo of parties filed along with the application is taken on record. Office to tag the same at the appropriate place.

CRM-M-23714-2024

Prayer in the instant petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No. 115 dated 08.04.2024 registered under Sections 376 and 506 IPC at Police Station Sohana, District SAS Nagar, Mohali (Annexure P-1).

On 10.05.2024, when this case was listed for hearing, following order was passed by this Court:-

“Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.115 dated 08.04.2024 (Annexure P-1) under Sections 376 and 506 IPC, registered at Police Station Sohana, District SAS Nagar, Mohali.

Learned counsel for the petitioner submits that inadvertently, due to a typographical error on the first page of the typed FIR (Annexure P-1) at page 9 of the paper book, the section has been incorrectly mentioned as 375 IPC instead of 376 IPC.

On oral prayer made by learned counsel for the petitioner, the said typographical error is rectified, and the Section 375 IPC, mentioned on the first page of the FIR (Annexure P-1) at page 9 of the paper book be read as Section 376 IPC.

Learned counsel for the petitioner, inter alia, submits that as has been mentioned in the FIR (Annexure P-1) itself, the petitioner and the complainant were friends. It is



submitted that it is also mentioned in the FIR that the complainant had gone with the petitioner on several trips to Kufri, Delhi and Shimla etc. Learned counsel states that the allegation that the petitioner developed physical relations with the complainant on the pretext of marriage, is incorrect. It is further submitted that, as per FIR the last incident is dated 18.06.2023, however, the FIR has been registered almost ten months thereafter i.e. on 08.04.2024. In support of his contentions, learned counsel for the petitioner also refers to the whatsapp chat between petitioner and the complainant (Annexure P-2), which pertains to January 2024; and also refers to the details of gifts (Annexure P-3) given by the complainant to the petitioner on the Valentines Day on 14.02.2024. 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 vehemently opposes the prayer made on behalf of the petitioner and submits that the allegations made in the FIR are very serious. It is submitted that after registration of the present FIR, the complainant has been threatened by the petitioner's side. It is stated that on 03.05.2024, while she was driving her Activa scooter, she was hit by an unknown vehicle, in respect of which she has moved a complaint dated 08.05.2024 to the Senior Superintendent of Police, SAS Nagar. It is further submitted that on 08.05.2024 the complainant first received a telephone call from the sister of the petitioner, which she did not accept. Thereafter, the complainant received a telephone call from an unknown



number, vide which, she was threatened. However, learned counsel for the State seeks time to file the detailed status report along with MLC of the complainant and other relevant documents.

Adjourned to 01.07.2024.

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 interim 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.*
- iv that the petitioner will co-operate with the Investigating Agency and hand over his mobile phone to the Investigating Agency and anything material related to the investigation, which the Investigating Agency requires.*

Meanwhile, State counsel is directed to file an affidavit as to the exact role of the petitioner alongwith the details of pending FIRs, if any, on or before the next date of hearing.”



Learned counsel for the petitioner refers to a judgment of the Hon'ble Supreme Court in *XXXX vs. State of Madhya Pradesh, 2024 SCC Online SC 241* decided on 06.03.2024, wherein it has been held that offence of rape is not made out on false promise to marry. Learned counsel further submits that in compliance of the order dated 10.05.2024 passed by this Court, the petitioner has joined the investigation.

Learned counsel for the complainant/respondent No.2 opposes the prayer made on behalf of the petitioner and refers to complaint dated 08.05.2024 filed by the complainant (Annexure R-2/5 attached with the reply). The relevant portion reads as under:-

“That on 03.05.2024, I was hit from behind when I was riding my Activa Scooter by some unknown person and with the said impact I fell down on the road and I received major injuries on my hand and on my head. I was rushed to the hospital. A copy of the CT Scan and other medical documents are attached.”

However, it is admitted that the copy of CT Scan and other medical documents have not been attached with the reply filed by learned counsel for the complainant/respondent No.2. Learned counsel for the complainant/respondent No.2 reiterates that serious allegations have been made against the petitioner.

Learned State counsel, on instructions, submits that in terms of the order passed by this Court, reproduced above, the petitioner has joined the investigation and is co-operating with the investigating



agency. As regards the other allegations made by the complainant regarding demand of money by the petitioner from the complainant and also that the complainant was hit on 03.05.2024 from behind when she was riding Activa scooter, learned counsel for the State submits that an enquiry on the said allegations is going on.

In view of the above, the order dated 10.05.2024 granting interim bail to the petitioner is made absolute.

However, the petitioner will abide by the conditions stipulated under Section 438(2) Cr.P.C. He will also join the investigation and cooperate 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, he will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

Pending application, if any, also stands disposed of.

01.07.2024
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No