



Sr. No.209

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24922-2024
Date of decision: 02nd September 2024

VISHAL SAINIPetitioner

versus

STATE OF PUNJABRespondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Gursimran Singh Madaan, Advocate
for the petitioner.

Ms. Himani Arora, AAG, Punjab,
assisted by SI Gurdeep Singh.

Mr. Sandeep Sharma, Advocate and
Mr. Aditya Pratap, Advocate
for the complainant.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973, for grant of anticipatory bail to the petitioner in case FIR No.58 dated 23.04.2024, under Sections 313, 376, 417, 420, 506 IPC, 1860, registered at Police Station Division No.2, Pathankot (Annexure P-1).

2. On 17.05.2024, following order was passed:-

“xxx xxx xxx xxx

2. *Learned counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in the present FIR at the instance of the first informant who alleged that her first marriage was dissolved by way of a Panchayati divorce and she is alleged to have solemnized second marriage in May 2021 and she is having one child from the first marriage, as well as from the second marriage.*

2.1 *It is further contended that even in the inquiry conducted at the instance of the investigating agency prior to the registration of the*



FIR, the petitioner has joined the inquiry proceedings and specifically stated that the complainant started demanding money from the petitioner after she came to know about the family background and when the said demand was not fulfilled, the present FIR was lodged.

3. *Notice of motion.*

4. *On advance notice, Ms. Himani Arora, A.A.G., Punjab, appears on behalf of the respondent-State and seeks time to file status report.*

5. *Learned counsel for the State has submitted a copy of the Medical Examination Report of the victim and the statement recorded under Section 164 Cr.P.C. The same are taken on record. She, however, seeks time to verify as to whether there is any medical evidence regarding the alleged abortion pregnancy.*

6. *Adjourned to 06.08.2024.*

7. *In the meanwhile, the petitioner is directed to join investigation within ten days and in the event of arrest, he shall be released on interim bail, on his furnishing bail bonds and surety bonds to the satisfaction of the arresting officer/Area Magistrate and also subject to the following conditions:-*

(i) That the petitioner shall further make himself available for interrogation by a police 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 from disclosing such facts to the Court or to any police officer.

(iii) That the petitioner shall not leave India without the prior permission of the Trial Court/CJM concerned.

8. *In view of the directions given by Hon'ble the Apex Court, vide judgment dated 18.03.2021, in Aparna Bhat and others vs. State of Madhya Pradesh and another [SLP (Criminal) No. 2531-2021)], a copy of the present order be supplied to the complainant by the investigating officer."*



3. Learned counsel for the petitioner contends that the petitioner has joined investigation in compliance of the aforesaid order dated 17.05.2024.

4. Learned State counsel, on instructions from SI Gurdeep Singh, confirms that the petitioner has joined investigation and also contends that his further custodial interrogation is not required.

4.1 Referring to the status report dated 04.08.2024, filed by way of affidavit of Sh. Sumeer Singh, PPS, Deputy Superintendent of Police, City Pathankot, learned State counsel submits that the statement of the prosecutrix was recorded under Section 164 Cr.P.C. on 25.04.2024. Her medico-legal examination has been conducted and swabs have been sent for analysis and DNA profiling to the office of Director, Forensic Science Laboratory, Phase-IV, Mohali.

5. Mr. Aditya Pratap Singh, Advocate has put in appearance on behalf of the complainant and filed his '*vakalatnama*', which is taken on record. He has opposed the present petition contending that the FIR has been registered with true facts as the petitioner had sexually abused the prosecutrix. The allegations levelled against the petitioner are serious in nature.

6. The petitioner is facing allegation that he has established illicit physical relations with the prosecutrix under the pretense of marriage and committed rape upon her. It is further alleged that the prosecutrix was pregnant. However, the petitioner took her to McLeodganj and administered some medicine, as such, the pregnancy was aborted.

7. In the status report, there is no reference of any medical evidence regarding the alleged abortion of pregnancy of the prosecutrix.

8. Investigation is complete. Challan has been presented before the Area Magistrate on 24.06.2024. The allegations levelled against the petitioner and the



9. In view of the reasons recorded in the order dated 17.05.2024 and keeping in view the fact that the petitioner has joined investigation and his further custodial interrogation is not required by the Investigating Agency, the present petition is allowed and the order dated 17.05.2024, granting interim bail to the petitioner is made absolute, subject to the conditions laid down under Section 438(2) Cr.P.C.

10. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

11. Liberty is reserved in favour of the State/complainant to move for cancellation/recalling of the order in case the petitioner violates any condition stipulated under Section 438 (2) Cr.P.C., or upon showing any other sufficient cause.

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

(HARPREET KAUR JEEWAN)
JUDGE

02nd September 2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No