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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-25940-2024

Date of decision: 12.08.2024

Amit alias Amit Kumar

....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Keshav Pratap Singh, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in case bearing FIR No.31 dated 06.05.2024 under Sections 376(2)(n)/506 of IPC and Section 67-A of I.T. Act (Section 67-A of I.T. Act added later on) registered at Police Station Women Bhiwani, District Bhiwani.

On 03.05.2024, the following order was passed:-

'The instant petition has been filed under Section 438 of Cr.P.C. by the petitioner in case arising out of FIR No. 31 dated 06.05.2024 registered under Sections 376(2) (n) and 506 of IPC,1860 (Section 67 of Information Technology Act, 2000 added later on) at Police Station Women Bhiwani, District Bhiwani, on the basis of statement recorded by the prosecutrix on 06.05.2024 alleging therein that on 21.11.2021, she had met the petitioner when she had gone to attend some wedding at the village of her aunt. The petitioner had proposed her to marry with him, there itself to which she refused. However, thereafter, they had been talking to each other through their mobile phones. On 30.06.2022, the petitioner took her to his house at Pilani. No one was present in his house. He filled vermilion in her hair parting and also took her photograph at that time. He assured her to perform marriage with her in future.

As per the further alleged on 18.09.2023 and 19.09.2023, he took her to a hotel near Vaishya College, Bhiwani wherein by making promise to marry her, he established sexual relations with her. On 21.11.2023 also, he took her to his house wherein also she was subjected to act of sexual intercourse by him. She stayed there till 21.11.2023 and he assured to perform marriage with her shortly, but



subsequently, backed-out from the same and extended threats to defame her, if she disclosed about the incident to anyone. As such, she prayed for taking action against him. Initially a case under Sections 376(2)(n) and 506 of IPC was registered. The victim was got medically examined. Her statement under Section 164 of Cr.P.C. was also got recorded. During the course of investigation, the victim informed the investigating officer that the petitioner had been uploading their objectionable photographs on social media through his Instagram ID '-amit-jaat-70' and had even making their chats viral. On this basis, offence under Section 67-A of Information Technology Act, 2000 had also been added. The investigation is under way.

The petitioner while apprehending his arrest had moved an application for grant of pre-arrest bail before the Court of learned Additional Sessions Judge, Bhiwani which was dismissed vide order dated 16.05.2024.

Learned counsel for the petitioner has argued that he has been falsely implicated in this case. Infact, it was a case of consensual sexual relationship between the petitioner and the prosecutrix. The prosecutrix had been voluntarily and willingly visiting with him in hotels. The petitioner had never given any promise to perform marriage with her. Learned counsel for the petitioner has drawn attention of this Court to Annexure P-4 which is copy of the guest detail register of the hotel, wherein the prosecutrix and the petitioner had been visiting and the same shows that during the period from 07.10.2022 till 10.12.2023, they had visited a particular hotel thirteen times and one more hotel at Bhiwani twice. The petitioner has also placed on record the photographs of the petitioner and the prosecutrix showing them to be intimate positions.

It is argued that ingredients of offence under Section 375 of IPC are not attracted. The petitioner had also not made any photographs of the victim viral on social media and is even ready to hand over his phone to the investigating officer for this purpose. His custodial interrogation is not required. He is ready to join the investigation proceedings. Therefore, it is urged that the petition deserves to be allowed.

Status report has been filed respondent No.1-State. It is argued by learned State counsel that there are serious allegations against the petitioner. He induced the prosecutrix to establish physical relations with him on the pretext of performing marriage with him and repeatedly committed rape upon her during the period of October, 2022 to December, 2023. His claim that no such promise had been made is falsified from the fact that in one of the photographs which has been placed on record by the petitioner himself, the prosecutrix is shown to be having vermilion in her head between her hair parting which fortifies her allegations that the petitioner had filled the same in her head and had made promise to marry her. It is submitted that it is a case of consent of the prosecutrix having been obtained on the basis of promise to marry repeatedly sexually assaulting her on that pretext and as such, since her consent is vitiated by fraud, hence, the custodial interrogation of the petitioner is required for thorough investigation in the matter.

At this stage, Mr. Ketan Antil, Advocate has put in appearance on behalf of respondent No.2 and has filed his Vakalatnama and seeks time to file detailed reply in the matter.

Adjourned to 12.08.2024.

In the meantime, the petitioner is directed to appear before the

Investigating/Arresting Officer to join investigation within one week or as and when required. In the event of his arrest, the Investigating/Arresting Officer shall release the petitioner on interim bail on furnishing personal/surety bonds to his/her satisfaction. The petitioner shall also abide by the conditions as envisaged under Section 438(2) Cr.P.C.'

Learned State counsel on instructions from ASI Meena Kumari, at the very outset informs the Court that the petitioner has joined the investigation and his custodial interrogation is not required.

In view of the statement of learned State counsel, order dated 03.05.2024 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 438(2) Cr.P.C.

The petition stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

12.08.2024
Neha

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