



CRM-M-26610-2024 (O&M)

215 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26610-2024 (O&M)
Reserved on: 24.07.2024
Date of Pronouncement:- 22.08.2024

MAKHANDEEN
.....PETITIONER

Vs.

STATE OF PUNJAB AND ANOTHER
....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN
(As on the reserved date)

Present: Mr. H.s. Rakhra, Advocate,
for the petitioner.

Ms. Sakshi Bakshi, A.A.G., Punjab.

Mr. Manoj R. Sharma, Advocate,
for respondent No. 2.

HARPREET KAUR JEEWAN, J.

1. The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No. 05, dated, 12.01.2024, registered at Police Station Ghuman, Police District Batala, under Section 376 IPC.
2. A short reply, dated 22.07.2024, by way of an affidavit of Sh. Rajesh Kakkar, PPS, Deputy Superintendent of Police, Sub-Division Sri Hargobindpur, Police District Batala has been filed by learned State counsel. The same is taken on record.



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3. Learned counsel for the petitioner *inter alia* contends that the petitioner and the prosecutrix were having live-in relationship for a period of more than 02 years as the husband of the prosecutrix had died on 30.05.2020 and she is having three children out of the said wedlock. The petitioner and the prosecutrix are Muslim by caste. It is further contended that the complainant has been residing with the petitioner with her own consent and there was no proposal of marriage at the instance of the petitioner.

3.1 The complainant had inclination to marry one Jamatu as such, there was strained relationship between the petitioner and Jamatu. However, the community had arrived at a decision that nobody will take any action in the manner.

3.2 It is also alleged that it is neither a case of rape nor a case of false promise of marriage. The petitioner is ready to join the investigation.

4. Learned counsel for the State and counsel appearing for the complainant has opposed the present petition, on the ground of the gravity the allegations.

5. I have considered the aforesaid contentions and perused the paper-book. The present case was registered at the instance of the prosecutrix who has alleged that her husband has died on 30.05.2020 and she has three children out of the said wedlock. The petitioner Makhandeep is her brother-in-law, who represented to her that he would keep her as his wife and would adopt her children. The brother and the father of the petitioner also agreed to the said relationship. The petitioner had been living with the prosecutrix for a period of two years and he used to make

physical relations with her against her wishes. However, he did not solemnize marriage with her. On 25.01.2023, when the complainant was present in the house, the petitioner came there and committed rape upon the prosecutrix forcibly. The complainant told the petitioner that she would make a complaint to the police. Thereafter, on 28.01.2023 the petitioner along with one gangster came and opened firing upon the prosecutrix and her children with an intention to kill them.

6. Keeping in view the facts and circumstances of this case, the investigating agency is required to conduct a spot investigation with regard to firing which is alleged to have been made by the petitioner. The recovery of the weapon is yet to be effected. It is not a simple case of consensual relationship. The petitioner is alleged to have fired upon the prosecutrix with the aid of another person, who is alleged to be a gangster.

7. Keeping in view the facts and circumstances of this case, the petitioner is not entitled to the concession of pre-arrest bail.

8. Consequently, the present petition has no merits and is accordingly dismissed.

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. Pending miscellaneous applications, if any, also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

August 22, 2024
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Whether Speaking	Yes/No
Whether Reportable	Yes/No