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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

207 CRM-M-27083 of 2024
Date of decision: 12.08.2024

Raghbir Singh ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vivek K. Thakur, Advocate, for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

1. Through the instant second petition under Section 438 of Code of Criminal Procedure, 1973, the petitioner seeks anticipatory bail in case FIR No.90 dated 08.12.2014, registered under Sections 376 IPC at Police Station Talwandi Chaudhrian District Kapurthala.
2. First petition filed by the petitioner had been dismissed as withdrawn.
3. It would be proper to mention at the outset that the petitioner had been declared a proclaimed offender in the aforementioned FIR on 15.06.2015. He moved a petition bearing CRM-M-40824 of 2021 seeking quashing of the order declaring him as a proclaimed offender and vide order dated 19.04.2024 that petition had been allowed and the order declaring him as such had been set aside. The petitioner was directed to either surrender

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before the trial court or to move appropriate application for grant of pre-arrest bail.

4. The aforementioned FIR had been registered against the petitioner on the complaint, at the behest of the complainant (name withheld) alleging therein that the petitioner was engaged in the business of running taxies. On 26.10.2024, the prosecutrix had hired the services of his car for the purpose of going to her parental house. The petitioner had stayed for the night after reaching at her parental house and had committed rape upon her in the dead of the night. She alleged that thereafter, the petitioner had started blackmailing her as well as extending threats to her and repeatedly sexually assaulted her till 05.11.2014.

5. It is argued by learned counsel for the petitioner that the prosecutrix is infact a member of gang constituted for the purpose of blackmailing rich and innocent persons by falsely implicating them in such like cases. She had registered as many as four FIRs against different persons previously. There is inordinate and unexplained delay in lodging of FIR. One of such like FIR as lodged on the complaint of prosecutrix has already been quashed by the High Court. The details of other FIRs as registered on the complaints of the prosecutrix have also been given in the petition. It is further argued by learned counsel for the petitioner that he has since joined the investigation and his custodial interrogation is not required. No recovery it is be effected from him as such. It is urged that the petition filed by him deserves to be allowed. It will be relevant to mention here that petitioner had been ordered to join investigation vide order dated 30.05.2024.

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6. It is submitted by learned State counsel that that petitioner had joined the investigation. It is also submitted that his custodial interrogation is not required.

7. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

8. Petitioner is alleged to have committed rape upon the prosecutrix on the night of 26.10.2014 and thereafter, repeatedly ravishing her till 05.11.2014. The FIR in this case was lodged as on 08.12.2014. The delay does not stand explained in the statement of prosecutrix. The petitioner has placed on record the copy of FIR No.167 dated 27.06.2015 (Annexure P-2) lodged against the prosecutrix making allegations of blackmailing the complainant of the said case. Annexure P-3 is copy of FIR No.281 dated 27.10.2024 registered under Section 385,386,342 IPC at Police Station Kapurthala City, District Kapurthala, making similar allegations as levelled in the FIR No.167 dated 27.06.2015 (Annexure P-2). The custodial interrogation of the petitioner is not required as he has already joined the investigation. It is debatable question as to whether the prosecutrix had been repeatedly subjected to rape by the petitioner as alleged by her. Such question has to be decided on thorough assessment of evidence to be produced during the trial and evaluation thereof and not while deciding the present petition. However, keeping in view the nature of the allegations as levelled against the petitioner, the fact that his custodial interrogation is not required since he has already joined investigation and attendant facts and



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circumstances, I am of the considered opinion that this petition deserves to be allowed. Accordingly, the same is allowed and order dated 30.05.2024 granting interim bail to the petitioner is ordered to be made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

9. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

[MANISHA BATRA]
JUDGE

12.08.2024
anil

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No