



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

205

CRM-M-28286-2024 (O&M)
Date of decision: 27.09.2024

NAVEEN KUMAR

...Petitioner

Versus

STATE OF PUNJAB AND ANR.

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Rohit Singh, Advocate and
Mr. Arvind Singh, Advocate
for the petitioner.

Ms. Himani Arora, AAG, Punjab.

HARPREET KAUR JEEWAN, J.

1. The second petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.8 dated 12.01.2020, under Section 376 IPC registered at Police Station Women, Patiala, District Patiala (Annexure P-1).
2. Learned State counsel has informed that the order declaring the petitioner as proclaimed offender had been set aside in revision petition under Section 397 of Cr.P.C. by the Additional Sessions Judge, Fast Track Special Court, Patiala vide judgment dated 03.08.2023. Copy of the same is submitted in the Court today, which is taken on record.



CRM-M-28286-2024 (O&M) - 2-

3. Mr. Inderpreet Singh Kooner, Advocate has put in appearance on behalf of respondent No.2 and filed his power of attorney, which is taken on record.

4. I have heard learned counsel for the parties and perused the relevant documents.

5. Perusal of the paper-book reflects that as per the status report dated 29.07.2024 filed on behalf of the respondent-State, the petitioner was declared proclaimed offender under the provisions of Section 82 Cr.P.C. on 21.02.2022. The first petition filed under Section 438 Cr.P.C. by the petitioner was dismissed by the Coordinate Bench of this Court vide order dated 03.09.2021 on the ground that the petitioner had misled the Court and had not approached the Court with clean hands. It was specifically ordered that though the petitioner had joined the investigation but the Court deemed it appropriate not to entertain the petition or confirm the interim bail allowed to him only because the petitioner had not fairly approached the Court. The following observations were made while dismissing the first bail petition of the petitioner:

Learned counsel appearing on behalf of the petitioner herein would contend that the allegations as set out under Section 376 of IPC are patently false as the petitioner and the complainant were in a relationship, as would be evident from the contentions raised in the FIR. It is argued that the contention of the complainant that she had consented for the physical relationship, as the petitioner had promised marriage is wrong. Counsel for the petitioner would submit that merely because the petitioner failed to perform the marriage that itself would not constitute the offence of rape.

The proceedings in this case have a slightly checkered history. While challenging the order dated 26.02.2020 dismissing the anticipatory bail application by the court below, a statement had been made before this Court on 16.06.2020 that the petitioner herein had been advised bed rest for 09 months on account of fracture and he sought to rely upon a certificate issued by a doctor. A statement had also been made that the prosecutrix is aged 45 years. This court had taken note of the objection raised by the State counsel that the certificate relied upon by the petitioner advising 09 months bed rest did not appear to be genuine. The petitioner had been allowed to join the investigation and an opportunity was also given to the State counsel to verify the genuineness of the certificate



relied upon by the petitioner.

Counsel for the complainant has also put in appearance to oppose the bail application and has also filed an application.

A status report dated 18.09.2020 filed by the State has been made available, which would reflect that the petitioner had a misalignment of tibia at fracture site and was unable to walk properly. The Medical Board took into account the statement of Dr. Upinder Singh that the petitioner herein wanted to get a consolidated rest certificate to claim salary, as he is government employee, so the certificate was issued from 06.10.2019 to 05.07.2020 and he did not put any date or registration number on it. The Medical Board came to the conclusion that the rest advised and that too after seven and half months of the surgery at one stretch was not justifiable.

It appears that the petitioner herein in active connivance with Dr. Upinder Singh, who is not before this court, had obtained a certificate to try and mislead the court in obtaining the anticipatory bail. The question whether bail ought to have been allowed under Section 376 of IPC or not would pale into insignificance, now given the fact that the petitioner herein has misled this Court and has not approached with clean hands. Even though the petitioner has joined the investigation, this court deems it appropriate not to entertain this petition or confirm the interim bail allowed to him only because the petitioner has not fairly approached this court.

In view of the above, the instant petition is hereby dismissed.'

6. In view of the aforesaid facts and circumstances that the first petition was dismissed on the ground that the petitioner had misled the Court and had not approached the Court with clean hands, as such, this Court is not inclined to entertain the second petition on same grounds.

7. Consequently, the petition stands dismissed.

8. All pending miscellaneous application(s), if any, stands disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

27.09.2024
P.Bhatt

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