



Sr. No.246

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

**CRA-S-2256-2024
Date of decision: 16th July 2024**

CHIRAGAppellant

versus

STATE OF HARYANA AND ANOTHERRespondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Lekh Raj Nandal, Advocate
for the appellant.

Mr. Pawan Kumar Jhanda, DAG, Haryana.

Mr. Pranav Chadha, Advocate
for respondent No.2 (Legal Aid Counsel).

HARPREET KAUR JEEWAN, J. (ORAL)

1. The present appeal has been filed impugning the order dated 24.05.2024, passed by the learned Special/Additional Sessions Judge, Rohtak, whereby the petition filed by the appellant under Section 438 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) for grant of anticipatory bail to the appellant in FIR No.91 dated 19.09.2023, initially registered under Sections 354(A)(i), 354(A)(ii), 354(A)(iv), 506, 509 IPC (*hereinafter referred to as "IPC"*) and Section 3(1)(w)(ii) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*hereinafter referred to as "the SC/ST Act"*), registered at Police Station Women, Rohtak, later on converted into Section 354(1)(i), (ii), (iv), 506, 509, 204, 34 and 376(2)(n) Indian Penal Code, 1860, Section 3(1)(w)(ii) and 3(2)(v) of SC/ST Act and Section 67-A of I.T. Act, registered at Police Station Women, Rohtak, Haryana, has been dismissed.



2. Learned counsel for the appellant contends that the order of dismissal of the petition seeking anticipatory bail, passed by the trial Court, is liable to be set aside keeping in view the fact that the appellant is not named in the FIR, which was registered at the instance of the prosecutrix on 19.09.2023. However, subsequently on 22.09.2023, the statement of the prosecutrix was recorded under Section 164 Cr.P.C. and the appellant was named in the said statement. The medical examination of the prosecutrix was conducted on 07.03.2024 and the offence under Section 376(2)(n) IPC and Section 3 of the SC/ST Act was invoked. Further, on 11.03.2024, the application for re-recording the statement of the prosecutrix under Section 164 Cr.P.C. was declined by the Area Magistrate. On 04.04.2024, the statement of the prosecutrix was got recorded by the Legal Aid Counsel after counselling her, wherein, she levelled allegations against the appellant regarding rape and extending threats. The custodial interrogation of the appellant is not required. No recovery has to be effected from him. The appellant is ready to join investigation.

3. Learned State counsel has opposed the present appeal by way of filing a detailed reply dated 26.06.2024, filed by way of affidavit of Sh. Virender Singh, Deputy Superintendent of Police, Crime against Women, Rohtak, along with documents Annexures R-1 to R-5.

4. Learned counsel for respondent No.2 has also opposed the present appeal on the ground of gravity of allegations levelled against the appellant.

5. I have considered the aforesaid contentions and perused the paper book.

6. The case was initially registered at the instance of the prosecutrix-respondent No.2 alleging that she is working in a showroom and co-accused of the



threaten the prosecutrix and used to follow her. He used derogatory words regarding the caste of the prosecutrix and further stated that the prosecutrix should live with her and have fun as he is having 25 acres of land. Co-accused Keshav had also been threatening the prosecutrix to get her abducted and kill her. The prosecutrix had to leave the job and ultimately, she reported the matter to the Police.

7. As per the statement of the prosecutrix, recorded under Section 164 Cr.P.C. on 22.09.2023 (Annexure R-1), the appellant was her friend and he was having her private video. The appellant gave the said video to co-accused Keshav and both the accused were showing the said video to everyone. On 20.09.2023, both the appellant and his co-accused Keshav had threatened the prosecutrix that they can do anything with her.

8. As per the status report, final report/challan under Section 173 Cr.P.C. was prepared against co-accused of the appellant-Keshav. However, on 20.01.2024, the complainant moved a complaint to the Superintendent of Police, Rohtak, wherein she levelled allegations that the appellant-Chirag, on the pretext of marriage, has taken her to a hotel and forcibly committed rape upon her and made her nude video and the said video was sent to co-accused Keshav. He had been forcing the prosecutrix to make physical relationship with him and also threatened to make the said video viral in case she denied the intimacy. The medical examination of the prosecutrix was also conducted on 07.03.2024 and as per the opinion of the doctor, possibility of sexual intercourse cannot be ruled out.

9. Though the Area Magistrate declined to re-record the statement of the prosecutrix under Section 164 Cr.P.C. vide order dated 11.03.2024, however, supplementary statement of the prosecutrix under Section 161 Cr.P.C. has been



appellant having committed rape upon the prosecutrix and using derogatory words regarding her caste. Even the prosecutrix has made a supplementary complaint dated 20.01.2024 (Annexure R-4) to the Police authorities levelling the aforesaid allegations. In such circumstances, merely on the ground that initially the appellant was not named in the FIR, he cannot be granted the concession of pre-arrest bail, since the FIR is not an encyclopaedia of the events. Even otherwise, many times in a case of sexual abuse, the prosecutrix does not muster the courage immediately to come out and disclose about the sexual abuse at the first instance. It has been noticed that in the Medico-Legal Report of the prosecutrix dated 07.03.2024 (Annexure R-3), she has given the alleged history of sexual abuse by the appellant-Chirag and she has also given the history that her video was made.

10. Keeping in view the totality of the facts and circumstances of the present case and the allegations against the appellant, he is not entitled to the concession of anticipatory bail. The impugned order dated 24.05.2024, passed by the learned Special/Additional Sessions Judge, Rohtak, does not suffer from any illegality and infirmity. Consequently, the present appeal stands dismissed.

11. Pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

16th July 2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No