



CRM-M-30557-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30557-2023 (O&M)

Reserved on: 10.05.2024

Date of Pronouncement:- 29.05.2024

YADWINDER SINGH

.....PETITIONER

Vs.

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

(As on the reserved date)

Present: Mr. G.D.S.Dhillon, Advocate,
for the petitioner.

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

Mr. Harsh Chopra, Advocate,
for the complainant.

HARPREET KAUR JEEWAN, J.

1. The instant petition has been filed under Section 438 Cr.P.C for grant of anticipatory bail to the petitioner in case FIR No. 161, dated 19.05.2023, under Sections 376 and 420 of the IPC read with Section 120-B thereof [Sections 376 (2) (n) and 506 thereof were added later on], registered at Police Station Tripuri, District Patiala.
2. As per the FIR, the complainant has alleged to have visited the shop of the petitioner for applying for the driving license of her daughter who is residing in Canada. The petitioner demanded a sum of ₹50,000/- from the complainant for the said work, out of which ₹10,000/- was paid at the spot and the remaining ₹40,000/- was paid at 06:00 p.m. in the evening.



Thereafter, the petitioner started conversing with the complainant and also did obscene acts on the pretext of giving her the licence. After that both the petitioner and co-accused Raj Kumar took the complainant to a deserted place at Omaxe Colony, Sirhind road, Patiala in his car where both the petitioner and his co-accused Raj Kumar committed rape upon the complainant by pointing a revolver towards her for a period of one hour. Two days after that the complainant was called to take the license of her daughter. The co-accused Raj Kumar was sitting outside the shop and the petitioner again committed rape upon her and handed over the driving license of her daughter mentioning address of Arunachal Pradesh which on being checked was found to be fake.

2.1 The complainant again approached the petitioner complaining about the said facts who assured her that the driving license would be made again. The petitioner further allured the complainant on the pretext of arrange a work visa for the complainant and her husband and for that purpose he asked her to arrange ₹3,00,000/- as documentation fee sending them to Canada where the daughter of the complainant is residing. The complainant handed over the copies of the passport to the petitioner. However, the application for visa was rejected by the Embassy in May 2022. The petitioner took the complainant in a '*Mandir*' and studio nearby that '*Mandir*' whereby he putting '*Sindoor*' on her forehead and Raj Kumar-co-accused of the petitioner clicked the photographs in his mobile phone and the petitioner-Yadwinder Singh also took her to a studio and got the photographs clicked. The petitioner further told that these photographs prove his marriage with the complainant and he would keep her as his wife



after giving a to his wife. However, the complainant did not give consent to this but on coming back to Patiala, the petitioner told her that he has filed a divorce petition against his wife. On the basis of the aforesaid photographs by threatening the complainant, the petitioner had been taking the complainant to various hotels and used to commit rape upon her. The complainant disclosed the facts to her husband and they decided to take the help of their relative, as such, disclose these facts to one of the relative Bahadur Singh who also spoke to the petitioner-Yadwinder Singh that he should stop threatening the complainant. However, the said talk resulted into no effect. Ultimately, the complainant report the matter to the police.

3. On 15.06.2023, the following order was passed by the co-ordinate Bench of this Court:-

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“Learned counsel contends that the wife of the petitioner had lodged an FIR No.105 dated 03.10.2022, under Sections 376 and 506 IPC against the DSP Sanjeev Sagar, who has got the petitioner implicated at the hands of the complainant to pressurize the petitioner and his wife. There is thus a mention of DSP in the present FIR. The alleged incident is of April, 2022 and the FIR has been lodged on 19.05.2023. The photographs that are sought to be relied upon are in fact tampered, which is apparent from Annexure P-4. The complainant had even previously filed complaint against one Pal Singh under Sections 354, 354-A, 354-B and 354-D IPC, Annexure P-5, which was withdrawn vide Annexure P-6, from which it is clear that she files frivolous cases for extracting money, reference is made to averment in para 8 of the petition. The wife of the petitioner had filed application for transferring FIR to the



Bureau of Investigation as the said DSP was trying to interfere. Likewise, for the same reason an application has been submitted by the petitioner in the present case for transferring it also to the Bureau of Investigation, which has so been done, but the file of the said case has not yet been sent by the Police Station Tripuri, Patiala, due to influence exerted. It is further submitted that in the FIR itself, it has been also mentioned that an amount of Rs.3 lacs was given to the petitioner for sending the complainant and her husband to Canada, as their daughter was studying there. Had the allegations in FIR been true, the complainant would not have paid the amount. Petitioner is not involved in any other case. He is ready and willing to join investigation as and when required by the investigating agency.

Notice of motion.

At the asking of the Court, Mr. Vinay Kumar Gupta, AAG Punjab accepts notice on behalf of respondent-State. Mr. Harsh Chopra, Advocate has put in appearance on behalf of the complainant and contends that the submissions made are a matter of trial.

Meanwhile, the petitioner is directed to join the investigation on or before 22.06.2023. In the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting Officer, subject to compliance of conditions as enshrined under Section 438(2) Cr.P.C.

However, it is clarified that if the petitioner does not join and cooperate with the Investigating Agency as required by the Arresting/Investigating Officer, this interim order shall be deemed to have been vacated.

Adjourned to 10.08.2023.”



4. Learned counsel for the petitioner reiterated the contentions recorded in the aforesaid order, contends that the petitioner has joined the investigation in compliance of the aforesaid order of this Court and is ready to face trial. He has been falsely implicated in this case.

5. Learned counsel appearing on behalf of the respondent-State has opposed the present petition while referring to the status report.

5.1 As per the status report filed by way of an affidavit of Sh. Darpan Ahluwalia, IPS, Assistant Superintendent of Police, Derabassi, SAS Nagar-cum-Chairman, SIT, during the investigation conducted by the District Police, the statement of the complainant was recorded under Section 164 Cr.P.C. on 20.05.2023, however, the complainant refused for medical examination as per the police file. It is further contended that in compliance with the order of this Court, the petitioner has joined the investigation on 20.06.2023.

5.2. As per the status report, a Special Investigation Team was constituted. The team has visited the crime spot, i.e. “Desolated place near, Oxame Colony, Patiala, Hotel Jaggi at Patiala Sirhind road near Madhopur Chowk and Hotel Jashan at Rajpura-Sirhind road” and the record was collected from the above said hotels. As per the documents, petitioner-Yadwinder Singh had taken the complainant 08 times to Hotel Jashan and 03 times to Hotel Jaggi. The petitioner has used his car bearing registration No. DL8CQ-9406 for committing the said crime. During the investigation, the petitioner has presented his photographs along with his wife Hema Sharma and alleged that the photographs presented by the complainant along with Yadwinder Singh stated to be clicked at Durga Studio, Naina Devi Temple, Himachal Pradesh are tampered/morphed. The said



contentions raised on behalf of behalf of Yadwinder Singh which verified from the photographer and the statement of the photographer was also recorded who disclosed that the petitioner-Yadwinder Singh came to his shop along with the complainant in May 2022 whereas he also came along with his wife recently in June 2023. This fact has also verified from the calls details of the complainant, the petitioner-Yadwinder Singh and his wife Hema Sharma.

5.3 It is further contended that the petitioner though came present before the SIT on 02.08.2023 but he has failed to cooperate and he did not supply the relevant record pertaining to arms and ammunition possessed by him despite it was demanded by the SIT and he did not produce the mobile phone required in the present case for verifying allegations made by the complainant.

5.4 It is further contended that during the investigation, the allegations levelled by the complainant that she met the petitioner on 12.04.2022 for the first time are contrary to the call records of the complainant which shows that the complainant and the petitioner-Yadwinder Singh were in contact with each other since February 2022, i.e. prior to the first day of incident on 12.04.2022.

6. *Per contra*, learned counsel for the petitioner *inter alia* contends that the petitioner has fully cooperated in the investigation. In fact he has deposited his arms and ammunition before the Bajwa Gun House, as per the receipt dated 21.06.2023 which has been produced in Court today.

7. Learned counsel for the complainant has opposed the bail petition, on the ground of gravity of allegations and also submitted that the petitioner is trying to mislead the investigating agency by submitting



photographs which were subsequently got clicked by the petitioner along with his wife, as such, he is not entitled to the concession of anticipatory bail.

7.1 He further contends that while granting interim bail to the petitioner by the co-ordinate Bench of this Court, vide order dated 15.06.2023, this fact has been cleared by this Court that if the petitioner does not join and cooperate with the investigating agency as required by the Arresting/Investigating Officer, the interim order shall be deemed to be vacated. As such, the order dated 15.06.2023 is liable to be vacated and the petition deserves to be dismissed.

8. I have considered the aforesaid submissions.

9. The complainant has refused for her medical examination on 20.05.2023. As per the version of the complainant, she had approached the petitioner for preparing a driving license of her daughter who was residing in Canada. These facts indicate that the complainant approached the petitioner for obtaining driving license of a person who was not in India at that point of time. There are allegations that wife of the petitioner has lodged an FIR. The complainant is major. These facts *inter se* the allegations of sexual abuse against the petitioner are matter of trial. The petitioner has joined the investigation in compliance of the order of this Court dated 15.06.2023 and sending the petitioner in custody would serve no purpose.

10. Keeping in view the above, especially, in view of the reasons recorded in the order dated 15.06.2023 and keeping in view the fact that the petitioner has joined investigation, his further custodial interrogation is not required by the Investigating Agency, the present petition is allowed and



the order dated 15.06.2023 passed by the co-ordinate Bench of this Court, granting interim bail to the petitioner is made absolute, subject to the conditions laid down under Section 438(2) Cr.P.C.

11. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

12. Liberty is reserved in favour of the State/complainant to move for cancellation/recall of the order in case the petitioner violates any condition stipulated under Section 438 (2) Cr.P.C., or upon showing any other sufficient cause.

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

(HARPREET KAUR JEEWAN)
JUDGE

May 29, 2024
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Whether Speaking	Yes
Whether Reportable	No