

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39785-2023 (O&M)
Reserved on: 09.02.2024
Date of Decision:- 26.02.2024

NITIN CHAUHAN

.....PETITIONER

STATE OF HARYANA

Vs.

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Dr. Amol Rattan Sidhu, Senior Advocate, with
Mr. Pratham Sethi, Advocate,
for the applicant-petitioner.

Ms. Mayuri Lakhanpal Kalia, D.A.G., Haryana.

HARPREET KAUR JEEWAN, J.

CRM-36876-2023

1. By this application, the applicant-petitioner seeks permission to place on record a copy of the FIR No. 167, dated 16.07.2023, registered at Police Station Rajaund, District Kaithal, under Sections 323, 376 and 506 of the IPC as Annexure P-5 with the accompanying petition.
2. The application is allowed and the copy of the aforesaid FIR is ordered to be taken on record as Annexure P-5 with the accompanying petition, subject to all just exceptions. Office to tag the same at appropriate place.

CRM-M-39785-2023

1. Present petition is under Section 438 Cr.P.C. for seeking anticipatory bail to the petitioner in case FIR No.167 dated 16.07.2023

registered under Sections 323/376/506 IPC, at Police Station Rajound, District Kaithal, Haryana.

2. Notice of this petition was issued to the prosecutrix (respondent No. 2). However, the notice was received back unserved with the report that no such person resides at the given address.

3. Learned Senior counsel for the petitioner contends that the petitioner is 49 years old and the prosecutrix is aged about 33 years and both of them are unmarried. As per the allegations, the petitioner came in contact with the prosecutrix for the first time on 19.06.2022 and sexual relations were developed on the false pretext of marriage at the house of the petitioner. The prosecutrix has also been doing the household chores. There is significant delay in lodging the FIR. Firstly, a Zero FIR was registered on 07.07.2023 in Police Station Kotal Mubarak Pur, District South New Delhi and subsequently, the present FIR has been registered on 16.07.2023. Even, at the earlier instance, the prosecutrix had lodged an FIR bearing No.31 dated 23.01.2018, under Sections 376/342 IPC, registered at Police Station Hazrat Nizamuddin against another person.

4. Learned State counsel has opposed the bail application on the ground of gravity of allegations. It is contended that the petitioner has repeatedly raped the prosecutrix against her consent, as such, he is not entitled for pre-arrest bail. It is confirmed that initially zero FIR was lodged at Police Station Kotla Mubarakpur, District South New Delhi and thereafter, the present FIR No. 167 was registered in District Kaithal on 28.07.2023. Counselling of the prosecutrix was conducted by a woman Advocate and her statement under Section 164 Cr.P.C. (Annexure R-2) was recorded. The Facebook ID, laptop, mobile phone and vehicle of the

petitioner used in the offence are yet to be recovered.

5. I have considered the aforesaid contentions.

6. As per the version of the prosecutrix, for the first time she has met the petitioner on 19.06.2022 when the petitioner had taken her to his home and made physical relations with her. Thereafter, she remained there for one month. She had been doing household work and then she was turned out of his house by the petitioner. The matter has not been reported by the prosecutrix after the said the petitioner and the prosecutrix initiated through social media and there incident. The zero FIR was registered on 07.07.2023. The prosecutrix is a major. It is a matter of trial as to whether the relationship between the petitioner and the prosecutrix was without her consent. The friendship between are no allegations that at that point of time the petitioner had promised to marry with the prosecutrix. The petitioner is ready to join the investigation. The prosecutrix could not be served as she is not residing at the given address.

7. Keeping in view the aforesaid facts and circumstances of the case, without making any comment on the merits of the case, the petition is allowed. The following conditions are also imposed upon the petitioner:-

“(i) That the petitioner shall further make himself available for interrogation by a police officer within a period of 10 days and thereafter as and when required, in that event the petitioner shall be released on bail upon his furnishing adequate bail bonds and surety bonds to the satisfaction of the Arresting Officer.

(ii) That the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person

acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

(iii) That the petitioner shall not leave India without the prior permission of the Trial Court/CJM concerned.

9. 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 in this order and under Section 438 (2) Cr.P.C., or upon showing any other sufficient cause.
10. Pending miscellaneous applications, if any, also stand disposed of.

(HARPREET KAUR JEEWAN)

JUDGE

26.02.2024

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Whether Speaking	Yes
Whether Reportable	No