



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-47087-2021

Date of decision:06.06.2024

Shubham Kumar

...Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Abhinav Gupta, Advocate for the petitioner.
Mr. Adhiraj Singh Thind, AAG Punjab.
Mr. G.S. Gopera, Advocate for the complainant.

SUMEET GOEL, J.

1. Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in FIR No.0009 dated 30.09.2021, registered for the offences punishable under Sections 376 and 420 of IPC at Police Station NRI, District Police Commissionerate, Jalandhar.

2. The FIR in question, as spelt out in the petition, is as follows:

“With reference to application U.I.D. Number 2097735 dated 29.07.2021 by Janavi Sharma D/o Late Des Raj R/o America the contents of the same is as under, "To Punjab Police and all the concerned Police officers, I Janavi Sharma, daughter of late Raj Citizen of U.S. and resident of California, am filing an FIR against Shubham Kumar Aka Shubham Rai, Son of retired ASI Jaswant Rai and Manjit Kaur for not accepting me as Shubham Kumar's wife. Shubham and I first communicated on Dec 1, 2020 via Instagram as a normal professional body guard service provider and seeker. I was planning to come to India in April/ May 2021 for personal reasons and knew required safety due to life threatening events in the past while visiting India our communication was very brief and never went any further due to an unfortunate event of my father's death brought our family to India in March 2021 as my father passed away on



February 24, 2021. Taking care of the events normally I didn't feel threatened because my family was with me. My family came back to USA in April while I stayed behind to take care of my personal business related to court and police. As I was at my paternal house in April 23, 2021, I was attacked by my ex in-laws leaving me to seek help and security again. I contacted Shubham Kumar on April 28, 2021 inviting him to Lunch to meet me yet things went the other direction Leading us to a relationship Shubham Kumar ended up proposing to me to marry him. looking at my circumstances I agreed to but only after I would meet him. Shubham and I met for lunch J7 on May 2, 2021 in Jalandhar, lunch marked the seal on our relationship to carry further and we met again on May 6, 2021. Shubham invited me to meet him at Best Western Hotel in Jalandhar. We two stayed there for almost 4 to 5 hours where Shubham persuaded me into having physical relationship telling me that he is how my husband have rights over me. We commenced the Wedding ceremony in Christian belief system as Shubham to a practicing Christian and in Christianity a pastor is not required to be present to exchange vows as long as one adult can read the bible and knows the vows. We exchanged the vows in the hotel room and consummated our marriage Shubham and I agreed to keep our marriage secret due to both it is having enemies wanting to harm us. Shubham then after this visit came to see me at my father's house in May 10, 2021 and spent several hours with me. That day Shubham took my iPhone from me stating I should give the phone as a gift to my husband (Shubham). First I hesitated thinking he is behaving like my exea who married me for USA purpose. Than giving a positive thought maybe Shubham would be different because he has his own work, brothers live in Canada father was a retired ASI and wouldn't do the same and gave the phone to him. The phone was locked meaning could not be used in India or anywhere but USA. Shubham came to see me on May 12, 2021 on my day of departure back to U.S. Though before I married Shubham I told him I was divorced and have a son and that he should give a full thought before making the decision to marry me and also on the note that I was older than him. He said he didn't care and wanted to marry me. After I landed in U.S., Shubham instead of asking from my well being he pressured me to have the phone unlock. Than several days right after he asked me to send money to him. That is when I got scared of him and decided not to have the phone unlocked. I told him I was not giving him any money and he should support himself and not depend on me because I'm not going to go through it again. After denying giving him money,



Shubham slowly started distancing himself away from me and kept taunting me for not giving him money. One day I sat down and gave a thought thinking maybe I have been too harsh toward him and should trust him. Then I started communicating with his mother only to find out that Shubham's mother had already found a girl for him in Canada whom they were planning to marry him to. Upon questioning Shubham about it, he emphasized that he doesn't agree on marrying her that now he's married to me. But my trust began to shatter because Shubham wouldn't answer my calls for hour's and wouldn't reply to my messages for days. He became estranged and all of sudden decided to go to Canada. This only came to light after I decided to give him a surprise birthday party and he lost control over his anger and started yelling at me. Shubham is married to me but is refusing to accept me now because I didn't give him the money. I am attaching all the screenshots and several recordings as a proof of our relationship. As of July 24, 2021 Shubham crafted a lie that police is looking for him and is not communicating with me and instead his cousin Karan answer the phone. If Punjab police does not help me have Shubham accept me as his wife I will commit suicide on social media and kill myself. Punjab Police, Shubham Kumar and his family will be responsible for my death and will have to face and answer the public, U.S.A. government and my family. I have even attached my hospital records for May 15, 2021 as I ended up bleeding due to physical relationship with him. Shubham also forced me to abort my pregnancy citing I'm alone and should not take the burden until we are both together. When I stressed out the matter of Shubham not accepting me as his wife to my friend, I tried talking to him but Shubham denied everything, when my friend tried taking the matter to social media, Shubham, Karan and Sonu (Banka) threatened to hurt him. Shubham also threatened me several days ago when I was not ready to give up my pregnancy. I have attached all the records and probes and request the police to arrest Shubham and have him take me as his wife. I can be reached via 209-954-2651 and Shubham can be reached via 978968086335 or 99550 25213 and as I said if the police does not arrest Shubham and his family I will commit suicide on social media and kill myself. If any of the Police officers of any rank in Punjab Police alerts Shubham Kumar of my complaint against him to help him leave the country or takes bribery from them and not make immediate arrests, all will be brought on social media and in media. If the Police fails to arrest Shubham or his family my lawyer will drag Punjab Police to the court regardless of me killing myself. The Police must obtain CCTV Footage from



*Best Western Hotel which will show Shubham with me and in any case the video might have been deleted because according to Shubham, his friend works at the hotel, Police must obtain CCTV footage from the surrounding business, I demand immediate arrest before Shubham tries to leave the Country. If Shubham Kumar refuses to accept me as his wife, and the police does not arrest him, this report will reach news channels as rape and Police will be held liable for everything." That upon receipt of this application through E-mail in the office of respectable Additional Director General of Police N.R.I. Wing, Punjab, respectable Additional Director General of Police N.R.I. Wing Punjab marked above mentioned application for investigation to Deputy Superintendent of Police N.R.I. Wing (S.D.) Mohali. Who mentioned in his report vide letter Number 374 Reader/D.S.P/N.R.I. dated 24.08.2021 that "The applicant in her application has levelled allegations against Shubham regarding heinous crime of decoying her for solemnizing marriage forming physical relations with her. Therefore, circumstances as have been mentioned in the application and keeping in view of the orders issued by Respectable D.G.P. Punjab, Chandigarh it would be reasonable to conduct the investigation of the application through some Lady Police officer". Whereby Respectable Additional Director General of Police N.R.I. Wing Punjab on dated 31.08.2021 passed an order that "AIG/JLA NRI May kindly have the matter examined through a Lady Officer" That above application was sent vide letter Number 22535 Nodal Desk-2 N.R.I. Wing dated 01.09.2021 to the office of Respectable AIG NRI Jalandhar. Whereby Respectable AIG NRI Jalandhar vide order Number 1997-9*9 AIG/NRI/JAL dated 07.09.2021 in concern of investigation of above mentioned application constituted Investigation Team comprising of Deputy Superintendent of Police, N.R.I. Sub- Division Jalandhar, Station House Officer Police Station N.R.I. Jalandhar City and Inspector Gurwinder Kaur Police Station N.R.I. Jalandhar City. Investigation team after investigation on dated 23.09.2021 wrote in the report sent for the kind perusal of concerned officer that "Applicant Janavi Sharma is Citizen of abroad America. That first marriage of applicant Janavi Sharma was performed. Out of which the applicant is having one son. Who is living with the applicant at America. Opposite Party Shubham Kumar alias Shubham Rai is running a firm in Jalandhar under the name and style of Bodyguard. That above mentioned firm works for providing Bodyguard privately upon the demand of people. Acquaintance of the applicant Janavi Sharma was made with Opposite Party Shubham Kumar alias Rai*



through Social Media in the month of December 2020. Whereby applicant had asked Opposite Party Shubham Kumar alias Shubham Rai about providing her Bodyguard in India because according to the applicant she was having danger from the family of her first husband. Thereafter according to statements of both the parties applicant Janavi Sharma and Opposite Party Shubham Kumar remained in contact with each other continuously through Social Media. Thereafter father of the applicant had died on dated 24.02.2021 at Village Ganna, Jalandhar and it has been reported that applicant came to India on dated 17.03.2021 along with her family for the last rites of her father. Thereafter according to the applicant her family members went back to America and applicant had to stay in India for some time for other persons reasons. Thereafter the applicant went to Kaithal Haryana on dated 22.04.2021 in concern of some program. Thereafter according to the applicant on dated 28.04.2021 she had contacted Shubham for getting Bodyguard for her protection and she told Shubham that she has come to India. Thereafter Opposite Party Shubham and applicant Janavi met on dated 02.05.2021 at J-7 Restaurant. Near Subhanpur, District Kapurthala, during that time two friends of Shubham namely Karan alias Kannu and Sonu alias Banka were also with Shubham. According to the statement of the applicant at above mentioned place Shubham asked the applicant for solemnizing marriage with him but according to the applicant due to the experience from her first marriage she didn't give consent for solemnizing marriage with Opposite Party Shubham. Thereafter communication kept on going each other between the applicant and Shubham over social media. In this regard the applicant has sent the screen shots of the chat held, voice massages and recording of the phone calls made over social media. Thereafter applicant Janavi Sharma and Opposite Party Shubham met in Jalandhar on dated 06.05.2021 and both went to Best Western Hotel Jalandhar. Where Shubham and Janavi booked a room and according to the applicant Janavi after going in the room Shubham asked the applicant for forming physical relations but the applicant while referring that there is no relation between them and refused for forming physical relation then Shubham said to the applicant Janavi that he follows Christian religion and according to Christian religion he consider her his wife. Exchange vows. That according to the statement of the applicant Opposite Party physically was very big and Jong tall and who forcibly removed the cloths of the applicant formed physical relations without her consent. Where they remained in the room for some time and thereafter they went to their



home. In this regard according to the information received from the Hotel Best Western Jalandhar a room has been found booked in the name of opposite Party Shubham Kumar alias Shubham Rai and Janavi Sharma and it has been found that both have been found stayed in above mentioned room. That at the time of booking of Room Opposite Party Shubham had given a copy of his Adhar Card as I.D and the applicant Janavi Sharma has given copy of her Passport. Apart from that according to the information provided by Best Western Hotel only 1 month backup of C.C.T.V. Footage used to be kept. Due to this reason C.C.T.V. footage is not available with them. Record procured from Best Western is attached with the report for examination please. According to the applicant on dated 10.05.2021 Opposite Party Shubham along with his friends Karan and Sonu went to meet her at her home at Village Ganna, Jalandhar and according the applicant at her house also Opposite Party Shubham also formed physical relations against her wish and Opposite Party Shubham decoyed her took her Apple I-Phone 12 pro Max Mobile Phone. According to the applicant she had to board a flight on dated 12.05.2021 in the morning at 3.30 for going to America. Whereby Shubham met her while going to Delhi on dated 11.05.2021 at Phillaur near Toll Plaza. Thereafter according to applicant after going abroad at America since health was not good so she visited the Doctor and she came to know that she is pregnant. That in this regard the applicant has sent her Medical Report dated 15.05.2021 regarding her undergoing treatment through E-mail. In this regard for getting information a letter Number 560-5A dated 22.09.2021 has been written to Civil Hospital Jalandhar. Till date no report has been received from them. A copy of the letter written to Civil Surgeon is attached with the report. According to the applicant Opposite Party Shubham demanded money from her then she refused to give money to Opposite Party Shubham then behaviour of Shubham changed and Shubham stopped picking up her phone. That the allegation which has been levelled by the applicant against parents of Shubham regarding not considering her marriage. In this regard applicant has not produced any such document from where it can go to prove that father of Opposite Party Jaswant Rai and mother Manjit Kaur were having any knowledge about this entire matter. Apart from that Janavi has produced screen shot of the chat held with the mother of Shubham namely Manjit Kaur over Instagram. Apart from that the applicant has herself stated in her statement that mother of Opposite Party Shubham namely Manjit Kaur had told her that they have made an alliance of their son with a Girl at



Canada. Therefore, the allegations levelled by the applicant against opposite parties Jaswant Rai and Manjit Kaur are not proved. Team constituted regarding the application found from the facts as have been mentioned in the application and from the statement of the applicant that Opposite Party Shubham Kumar alias Shubham Rai has decoyed the applicant Janavi Sharma for solemnizing marriage and without the consent of the applicant formed physical relations with her and thereafter not solemnizing marriage with the applicant and allegations regarding taking the phone of the applicant and keeping it in his possession have been found. Facts as have been mentioned in the application and the from the statement given by the applicant it transpired that Opposite Party Shubham Kumar alias Shubham Rai S/o Jaswant Rai R/o House Number B 9-245 Nivi Abadi, Santokhpur, District Jalandhar decoyed the applicant Janavi Sharma to solemnize marriage and forming physical relations with her without her consent and later on not solemnized marriage with the applicant and allegations regarding commission of cheating are found. Therefore, prima facie a case is made out against Opposite Party Shubham Kumar alias Shubham Rai S/o Jaswant Rai R/o House Number B 9-245 Nivi Abadi, Santokhpur, District Jalandhar U/s 420, 376 of I.P.C. Therefore, a case is to be registered against Opposite Party Shubham Kumar alias Shubham Rai at Police Station N.R.I. Jalandhar City and investigation is to be carried out. During investigation if any facts comes to fore regarding any other section or any other accused then during investigation appropriate action shall be initiated." Sd/- Inspector Gurwinder Kaur Police Station N.R.I. Jalandhar City. Sd/- Station House Officer N.R.I. Jalandhar City, Sd/- Deputy Superintendent of Police N.R.I. Wing Sub-Division Jalandhar. Being agree with the same Respectable A.I.G./N.R.I. Jalandhar has mentioned in his investigation report that "Keeping in view of the above mentioned report of above mentioned constituted Team of Deputy Superintendent of Police N.R.I. Jalandhar, Station House Officer N.R.I. Jalandhar City and Lady Inspector Gurwinder Kaur Police Station N.R.I. City Jalandhar, allegations are found against Opposite Party Shubham Kumar alias Shubham Rai S/o Jaswant Rai R/o House Number B 9-245 Nivi Abadi, Santokhpur, District Jalandhar regarding decoying the applicant Janavi Sharma for solemnizing marriage and without the consent of the applicant formed physical relations with her and thereafter not solemnizing marriage with the applicant and commission of cheating. Therefore, Therefore, prima facie a case is made out against Opposite Party Shubham Kumar alias



Shubham Rai S/o Jaswant Rai R/o House Number B 9-245 Nivi Abadi, Santokhpur, District Jalandhar U/s 420, 376 of I.P.C. Therefore, a case is to be registered against Opposite Party Shubham Kumar alias Shubham Rai at Police Station N.R.I. Jalandhar City and investigation is to be carried out. During investigation if any facts comes to fore regarding any other section or any other accused then during investigation appropriate action shall be initiated Sd/- Assistant Inspector General of Police N.R.I. Jalandhar. That above mentioned report along with documents letter Number 2173 AIG/NRI/JAL Dated 23.09.2021 through proper channel was sent for the kind perusal of Respectable Additional Director General of Police N.R.I. Wing, Punjab, Phase 7, S.A.S. Nagar. Whereby Respectable Additional Director General of Police N.R.I. Wing, Punjab ordered that "SHO/NRI/JLA City to register and investigate case as per report of AIG/NRI Jalandhar" Sd/- ADGP/NRI dated 29.09.2021, that today upon receipt of above mentioned order vide letter Number 24748 Nodal Desk-2 N.R.I. dated 29.09.2021 along with application and record by post in Police Station this First Information Report has been registered U/s 420, 376 of I.P.C. against Shubham Kumar alias Shubham Rai S/o Jaswant Rai R/o House Number B 9-245 Nivi Abadi, Santokhpur, District Jalandhar, original application along with Inquiry report and copy of FIR is being handed over to myself for further investigation. Concerned officer and control room have been informed over telephone. Special reports are issued and are being sent for the kind perusal of Hon'ble Court and concerned officers."

3. Learned counsel for the petitioner has argued that the petitioner is aged about 28 years whereas the complainant, who is twice divorced, is aged about 41years & the petitioner had been contacted by the complainant as she was looking for a security guard after being threatened by her second husband's father and the genesis of the present FIR is dispute regarding dues of such security service provided by the petitioner to the complainant; though there are allegations that the petitioner had raped the complainant on 06.05.2021 in a hotel at Jalandhar and again on 10.05.2021 at Phillaur but both the allegations are palpably false; the complainant had returned to USA



on 12.05.2021 and the complaint in question which led to the registration of FIR was submitted by her through e-mail about 2½ months later on 29.07.2021; as per medical report dated 15.05.2021 (copy whereof has been appended as Annexure P-4 with the present petition) prepared by a doctor in USA, complainant had been diagnosed with “Acute cystitis with hematuria” and there was no material to suggest sexual assault; complainant had come back to India in October, 2021 wherein she was medically examined but she has not mentioned any history of forcible sexual assault, rather, she declined UPT (Urine Pregnancy Test) and the Medical Board had opined that neither was she pregnant nor there was any evidence to suggest intake of medicine for abortion; the petitioner is a habitual complainant insofar as she had filed a petition against Donald Trump (the then President of USA) which came to be declined by judgment dated 03.09.2020 passed by a USA Court (copy whereof has been appended as Annexure P-9 with the present petition) & she had also got lodged an FIR on 20.11.2022 (copy whereof has been appended as Annexure P-11 with the present petition) under Sections 494, 498-A, 506, 342, 34 of IPC at Police Station Bahalgarh, District Sonapat, Haryana. Thus, learned counsel has prayed for the grant of anticipatory bail.

4. Learned State counsel has opposed the grant of anticipatory bail by arguing that the allegations made against the petitioner are serious in nature and hence he ought not be granted the concession of anticipatory bail. Learned State counsel has further submitted that there are specific allegations against the petitioner of committing rape upon the complainant on the pretext of marrying her for which the FIR in question has been correctly registered against the petitioner. Learned State counsel has further



relied upon a status report dated 02.04.2024 to argue that the petitioner had got issued a passport on 17.05.2023 and tried to leave India without obtaining requisite permission. The relevant of the said status report dated 02.04.2024 reads as under:

9. *That petitioner has got issued passport bearing no. X-8490929 on dated 17-05-2023 valid till 16-05-2033, and this Hon'ble Court was pleased to direct answering respondent to verify the details given by petitioner for issuance of passport.*

10. *That in order to verify about the details with respect to issuance of passport to petitioner, AIG NRI Jalandhar has issued letter bearing no. 470/AIG/NRI/JAL dated 19.03.2024 to Regional Passport Officer Jalandhar to verify the details.*

11. *That Regional Passport Officer has replied to abovesaid letter vide their letter no. JA2077944572223/PV.A.REC.157 dated 21-03- 2024 along with the undertaking duly signed by [wherein the petitioner has depicted that he has not been charged with any offence despite the fact that present FIR has been registered against petitioner. Report of Regional Passport officer Jalandhar and record annexed herewith as annexure R3.*

12. *That on getting the details from Regional Passport Officer, AIG NRI Jalandhar has issued letter to Commissioner of Police Jalandhar to take appropriate action against petitioner for concealing the details of FIR registered against him.*

13. *That AIG NRI Jalandhar has also issued letter to Regional Passport Officer to impound the passport issued by them to the petitioner as the same has been issued on the basis of concealment and misrepresentation of facts by the petitioner.*

14. *That petitioner after issuance of abovesaid passport, tried to flee away from India from Netaji Subhash Chander Bose International Airport Kolkata to Thailand on 30.07.2023, however as an LOC was issued he was detained at the Airport and later on an intimation was sent to the investigating officer about this fact. It is pertinent to mention here that as this Hon'ble Court has already granted interim bail to petitioner as such he was not arrested.*

15. *That the present petitioner with a mala fide intention has concealed the factum of present FIR at the time of issuance of passport, moreover petitioner has not obtained the necessary permission from Ld. Court for going abroad thus present petition is liable to be dismissed on the basis of*



the conduct of the petitioner which has categorically established that he is not only a flight risk but has also violated the terms and conditions of the interim bail granted to him by this Hon'ble Court by trying to flee the country on a passport issued on the basis of concealment of facts."

5. Learned counsel for the complainant has vehemently opposed the grant of anticipatory bail to the petitioner by arguing that the petitioner has established a forcible sexual relationship with the complainant by extending a false promise of marriage. It has been further argued that the consent, if at all so given, was vitiated in terms of Section 90 of IPC as it was totally based upon the fraud. According to learned counsel, it is an unequivocal case of rape and, hence, the accused does not deserve the concession of anticipatory bail. Moreover, the allegations against the petitioner are serious in nature and the investigation is still pending, the concession of anticipatory bail accorded to the petitioner, at this stage, would prejudicially hamper the same as also the possibility of tampering the evidence cannot be ruled out. Thus, dismissal of the instant petition is prayed for.

6. By way of rebuttal arguments, learned counsel for the petitioner has relied upon a counter affidavit dated 25.04.2024 filed by the petitioner, relevant whereof reads as under:-

"3. That on 06.09.2023, the Ld. State Counsel apprised the Hon'ble Court that the petitioner on 30.07.2023 had tried to leave the country without seeking prior permission of the Courts and was not permitted to board the flight for Thailand from Netaji Subhash Chander Bose Airport, Kolkata.

4. That vide the aforesaid status report it has been submitted that the petitioner has got passport issued on 17.05.2023 from the Passport Authorities without furnishing the details of the present FIR.



5. That in regard to the aforesaid it is respectfully submitted that the passport of the petitioner bearing No. J8692473 expired on 08.05.2022. Thereafter, the petitioner who is in the business of organizing shows/events for Punjabi film industry had to urgently visit Thailand for meeting the organizers of the show on behalf of Dilpreet Dhillon (Punjabi Singer) but since his passport had expired he was unable to visit and therefore, sought the help of his Chartered Accountant Sandeep Sharma for the purpose of renewal of passport in Tatkal. That the Chartered Accountant of the petitioner redirected him to one Lovepreet who helped the petitioner to apply for the renewal and inadvertently the petitioner forgot to inform him about the pendency of the present FIR and as a result of which said Lovepreet instead of answering in affirmative with regard to criminal antecedents, mentioned that there was no case pending against the petitioner.

6. It is pertinent to mention that even in cases where people fail to disclose their criminal antecedents while applying for passport, the said information invariably transpires during police verification report but in the present case since the FIR was not registered in the local police station the police authorities also failed to disclose the said information to the passport authorities.

7. That since the petitioner was on anticipatory bail, the petitioner was unaware of the fact that he would require permission of the court to travel abroad and the petitioner also failed to seek any legal guidance in this regard. It is only when the immigration authorities informed the petitioner that he would have to seek permission of the Court to travel abroad, only then for the first time the petitioner learnt about this legal technicality and since then the petitioner has not made any attempt to travel abroad.

8. It is respectfully submitted that the petitioner has the highest regard for the criminal justice system of this Country and the petitioner tenders unconditional apology and further undertakes to surrender his passport with the authorities and would apply afresh after consciously giving correct details and would further travel abroad only after seeking permission of the Hon'ble Court.

9. It is further submitted that the petitioner has two brother one elder and one younger who are both well settled in Canada and it is only the petitioner who is looking after the parents and therefore, cannot even think of leaving the Country. Even otherwise, the entire business of the petitioner is based in India and the petitioner is a tax paying member of



the country, therefore, the petitioner cannot afford to permanently leave the country.”

7. I have heard learned counsel for the parties and have perused the record.

8. It would be apposite to refer herein to an order dated 23.11.2021 passed by this Court whereby interim anticipatory bail was granted to the petitioner. The same reads as under:-

“Instant petition has been filed under Section 438 of Code of Criminal Procedure, 1973, seeking grant of anticipatory bail in case FIR No.0009 dated 30.09.2021, registered under Sections 376 and 420 of IPC, 1860, at Police Station N.R.I. District Police Commissionerate Jalandhar.

Counsel for the petitioner submits that the petitioner is an actor-cum-model and is providing security guards/bouncers to celebrities. He submits that the petitioner is 28 years of age, while the complainant, who is 41 years of age and is twice divorced, contacted the petitioner as she was looking for a security guard after the father of her second husband threatened her. Counsel asserts that though there are allegations that the petitioner raped the complainant on 06.05.2021 in a hotel at Jalandhar and again on 10.05.2021 at Phillaur, both the allegations are absolutely false. He submits that the complainant returned to USA on 12.05.2021 and the complaint was submitted by her through email 2½ months later, on 29.07.2021. It is his argument that as per medical report dated 15.05.2021, Annexure P-4, prepared by a doctor in USA, complainant has been diagnosed with "Acute cystitis with hematuria" and there is no material to suggest sexual assault. He has also made a reference to the status report filed by way of an affidavit of Deputy Superintendent of Police, to submit that the complainant came back to India in October, 2021 and was medically examined. Counsel points out that the complainant did not mention any history of forced sex, rather, she declined UPT (Urine Pregnancy Test) and the Medical Board in its report dated 24.09.2021, Annexure R-1, opined that she is not pregnant and there is no evidence to suggest intake of medicine for abortion. Still further, he submits that the statement of the prosecutrix under Section 164 Cr.P.C. has not been recorded and the FIR has been lodged as the petitioner started insisting for payment of security services from the complainant.



Counsel for the complainant while opposing the prayer, submits that the conversation between the complainant and the petitioner by electronic means as well as the mobile of the complainant is yet to be recovered.

List on 22.03.2022.

Meanwhile, the petitioner shall join the investigation and would appear as and when called for by the Investigating Officer and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.

While being released on bail, the petitioner shall furnish an undertaking with the Investigating Officer to the effect that he will not try to contact the complainant or in any way intimidate her. In case, he violates the undertaking the interim protection granted to him shall be liable to be vacated”

9. Keeping in view the nature of the allegations made, the extensive Instagram chats between the petitioner and the complainant as also the fact that the complainant being an educated lady aged about 41 years, it cannot be inferred, at this stage, from the facts of the present case that the petitioner has wooed the complainant into a forcible sexual relationship on the false pretext of marriage or that the complainant got swayed away by such an alleged false promise. The complainant, being an educated lady, cannot be placed on the same pedestal as that of a rustic villager, therefore, it cannot be said, at this stage, that the complainant was easily swayed away by the false promise of marriage made by the petitioner and the petitioner has developed a forcible sexual relationship with the complainant.

9.1 As per the specific stand of the State, the custodial interrogation of the petitioner is not required. However, it has been strenuously submitted by the learned State counsel that the petitioner has tried to misuse the



concession of interim anticipatory bail granted to him by trying to leave the country. A perusal of the affidavit dated 25.04.2024 filed by the petitioner coupled with the factum of his passport having been surrendered by him to the Regional Passport Officer, Jalandhar leads to the conclusion that the anticipatory bail ought not to be declined on this score alone. The crucial and vital question is whether there has been deliberate, contumacious and unjustified infraction of the conditions imposed by the Court while extending the concession of anticipatory bail to the petitioner. A solitary instance of the petitioner trying to travel abroad without seeking the requisite permission in terms of Section 438(2) of Cr.P.C. of 1973 would not, *ipso facto*, lead to the conclusion that the petitioner does not deserve the concession of anticipatory bail on this ground.

10. In view of the above, the interim order dated 23.11.2021 passed by this Court is made absolute, subject to the following conditions in addition to the conditions stipulated under Section 438(2) Cr.P.C.

(i) The petitioner shall submit a bank guarantee/FDR of Rs.5.00 lacs in the name of the Court of the concerned CJM/Illaq Magistrate (Jurisdictional Magistrate) within two weeks from today. This condition shall remain operative till submission of report under Section 173 of Cr.P.C., 1973 or till culmination of trial, as the case may be.

(ii) The petitioner shall appear in person before the concerned Illaq Magistrate or concerned SHO or concerned Investigating Officer on the 1st day and 15th day of every month till submission of the report under Section 173 of Cr.P.C., 1973. This condition shall stand waived off after submission of said report.



11. The Regional Passport Officer, Jalandhar is directed to send the passport of the petitioner to the CJM/Illaq Magistrate, Jalandhar (Jurisdictional Magistrate) and the said Court is directed to retain the passport in its custody.
12. This order should not be treated as “blanket” order. It will not be read as granting the petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned ibid and will not operate in respect of any other incident that involves commission of an offence.
13. Liberty is reserved in favour of State/complainant to move for cancellation/recall of this order in case the petitioner violates any condition stipulated under Section 438(2) Cr.P.C., 1973 or upon showing any other sufficient cause.
14. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.
15. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

June 06, 2024
Ajay

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