

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

206

CRM-M-40916-2024 (O&M)

Date of Decision: 05.12.2024

Sandeep

.... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Sumit Sangwan, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Mr. Gyan Parkash Saini, Advocate for the complainant.

NIDHI GUPTA, J. (ORAL)

Prayer in this 1st petition filed under Section 482 Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of anticipatory bail to the petitioner in case FIR No. 167 dated 06.08.2024 registered under Sections 64(1), 78, 123, 308(2), 332(2), 351(2) of the Bharatiya Nyaya Sanhita, 2023 and Section 25 of the Arms Act at Police Station Badhra, District Charkhi Dadri.

Vakalatnama filed on behalf of the complainant (now deceased) through her husband, namely, Sukhbir Singh, in Court today is taken on record.

On 23.08.2024, when this case was listed for hearing, following order was passed by this Court:-



“Prayer in this 1st petition filed under Section 482 Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of anticipatory bail to the petitioner in case FIR No. 167 dated 06.08.2024 registered under Sections 64(1), 78, 123, 308(2), 332(2), 351(2) of the Bharatiya Nyaya Sanhita, 2023 and Section 25 of the Arms Act at Police Station Badhra, District Charkhi Dadri.

Learned counsel for the petitioner, inter alia, submits that the allegations made in the FIR prima facie are false and fabricated as admittedly, the petitioner and the complainant were in a consensual relationship since March, 2023 till July, 2024. It is submitted that for this reason, it has been alleged in the FIR that the petitioner had committed rape upon the complainant for the first time on 15.03.2023. The prosecutrix/complainant is a married woman having 02 children. It is only because the husband of the prosecutrix discovered the relationship between them that the present FIR came to be registered against the petitioner only on 06.08.2024. This fact has been admitted by the complainant in Whatsapp chat (Annexure P-3) and relevant of which is at page 22 of the paper-book. Accordingly, it is submitted that the allegation in the FIR that the petitioner had mixed something in the milk supplied to the prosecutrix and after drinking the milk, she became dizzy; whereafter the petitioner had made obscene photos and videos of the prosecutrix are false and fabricated. Nothing has to be recovered from the petitioner, therefore, his custodial interrogation is not required. The petitioner is ready to join the investigation as and when required and shall abide by all the terms and conditions imposed upon him.

Notice of motion.



On the asking of Court, Mr. Surinder Kumar Dagar, DAG, Haryana, accepts notice on behalf of respondent-State and vehemently opposes the submissions of learned counsel for the petitioner and submits that as per the allegations in the FIR, the petitioner has committed rape upon the prosecutrix from March, 2023 to July, 2024. The FIR was lodged by the complainant on 06.08.2024. On instructions from ASI Sarita, learned counsel for the State informs that medico-legal examination of the prosecutrix was conducted on 07.08.02024 in which no samples have been taken.

Heard.

Adjourned to 05.12.2024.

In the meantime, the petitioner is directed to appear before the SHO/Investigating Officer to join investigation and in the event of his arrest, he shall be released on bail on his furnishing bail bonds to the satisfaction of SHO/Investigating Agency subject to the following conditions as envisaged under Section 438(2) Cr.P.C.

- i. that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required;*
- 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/her from disclosing such facts to the Court or to any police officer;*
- iii. that the petitioner shall not leave the country, without prior permission of the Court and shall surrender his passport, if any.*

Meanwhile, State counsel is directed to file an affidavit/status report as to the exact role of the petitioner



along with details of pending FIRs, if any, on or before the next date of hearing.”

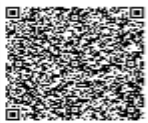
Learned counsel for the petitioner submits that in compliance of the order dated 23.08.2024 passed by this Court, the petitioner has joined investigation on 17.09.2024.

Learned counsel for the State files reply dated 30.11.2024 by way of an affidavit of the Deputy Superintendent of Police, Badhra District Charkhi Dadri on behalf of respondent-State in Court today is taken on record.

Learned counsel for the State, on instructions from ASI Sarita, submits that the petitioner has joined investigation on 17.09.2024 and is co-operating with the investigating agency. However, learned counsel for the State refers to para 5 of the above said reply, which reads as under:-

“That the complainant/victim ‘XXX’ has committed suicide by consuming poisonous substance on dated 17.10.2024 and a case FIR No. 229 dated 18.10.2024 under Section 108 of BNS police station Badhra has been registered against her husband Sukhbir. The case is under investigation.”

Learned counsel appearing on behalf of the complainant/respondent No.2 through her husband, namely, Sukhbir Singh, submits that the allegations made in the present petition, particularly in para 4 of the present petition, to the effect the the complainant/now deceased was demanding money from the petitioner, are false and fabricated.



In view of the fact that the petitioner has joined investigation on 17.09.2024, the order dated 23.08.2024 granting interim bail to the petitioner is made absolute.

However, the petitioner will abide by the conditions stipulated under Section 438(2) Cr.P.C. He will also join the investigation and cooperate with the investigating agency in case he is required for the same in future as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the investigating agency that the petitioner is required for the investigation but is not cooperating, it will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

Pending application, if any, stands disposed of.

05.12.2024
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No