



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CRM-M-43549-2023 (O&M)
Date of Decision: 28.05.2024

ANIL KUMAR

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM:- HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present:- Mr. K.S. Virk, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

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.165 dated 29.07.2023 registered under Section 376(2)(n) IPC at Police Station City Safidon, District Jind.
2. Reply by way of an affidavit of Ashish Kumar, HPS, Deputy Superintendent of Police, Safidon, District Jind has already been filed on behalf of the respondent-State, which is taken on record.
3. Learned counsel for the petitioner *inter alia* contends that the present FIR was registered at the instance of the complainant/prosecutrix on the ground that the petitioner is alleged to have repeatedly committed rape upon



the her. He further contends that the petitioner had joined the investigation in pursuance to the order dated 01.09.2023 passed by this Court.

4. On 01.09.2023, the Coordinate Bench of this Court passed the following order:-

“Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.165 dated 29.7.2023, under Section 376(2)(n) IPC, registered at Police Station City Safidon, District Jind. The FIR has been registered on the statement of complainant/victim, which reads as under :-

“The brief facts of the case are as follows that one complaint CMOOFF/N/2023/057150 DT.11.05.2023 after inspection was received in the Police Station the contents of which are as follows:- to the Chief Minister, Govt. of Haryana, Chandigarh CM Window Subject: complaint Anil s/o Surajbhan for committing rape by on the pretext of marriage. Sir it is prayed that I, Neema d/o Shripal is permanent resident of Rojla, Tehsil Safidon, District Jind. That after ITI, I am posted as Apprentice in the Canal Department in Safidon. That the accused Anil s/o Surabhan had a photo studio shop near Makbara Peer which was near my place of work. That I became known to accused Anil in March 2022 at the photo studio itself where I, applicant, used to visit the accused's shop for getting photos. After some time became well acquainted with the accused Anil and during this time we started living in live-in relation. That in October, 2022 I and accused started living in a room at Delhi Bypass, which is in Rohtak and the accused kept promising me to get married and for some time there he raped me many times on the pretext of promise to marry. And I, applicant, repeatedly asked for getting married but I was time and again told by accused Anil that what is the hurry, we will get married later. That after some time of living at Delhi Bypass Rohtak I and Anil left from there in January 2023 and went to Sanjay Chowk, which is in Panipat for living. After going there I, applicant again asked the accused Anil to get married at which accused Anil said that we will get married within 2-3 months and like every other time, the accused Anil made physical relations with me there as well. After sometime in March 2023, accused Anil lied to me and went to his home saying that he had some work and I will come back within a day or two. That when the above accused did not return for more than a week then I, applicant, contacted accused Anil on his mobile at which accused Anil said that he will take some more time and you stay there, I will come back from my village after arranging some money which is necessary for us. That on the asking of accused Anil I stayed there for some more days and after some time I, applicant, called accused Anil at which sometimes his phone was switched off and some times he did not pick up and from there I directly went to



accused Anil's house where I got to know that the accused Anil is already married and when I went to his house then I got to know that he had gone to his fields at that time. After enquiring from the neighborhood, I went to his fields where I saw that the accused was working in the fields alongwith his brother Rohtash and father Surajibhan at which I told about our relationship to his father Surajibhan at which the accused Anil, his brother Rohtash and father Surajibhan thrashed me in the fields itself and gave filthy abuses to me and made me run away by giving threats to kill and also said that in case you tell anyone about this then we will kill you. At which I got petrified and came back to my village Rojla and out of fear I, applicant got registered a case of beating and abuses. The FIR no. of which is 108 dated 21.04.2023. That after registration of case I, applicant, gave application to SHO, Sadar Safidon and DSP Safidon and SP, Jind and Women Police Station Safidon for rape on the pretext of marriage. But till date no FIR has been registered on my complaints and neither any investigation has been done. Therefore it is requested to you that FIR be registered against accused Anil s/o Surajibhan for committing rape on the pretext of marriage and for threatening to kill. I shall be highly obliged."

Learned counsel for the petitioner *inter alia* submits that the present FIR is malicious, utterly false and untrue. Learned counsel submits that the petitioner was never in live-in-relationship with the complainant. Learned counsel submits that the complainant had earlier also registered an FIR No.108 dated 21.4.2023, under Sections 323, 324, 34, 506 IPC, Police Station Safidon, District Jind (Annexure P-2), wherein she alleged that the petitioner had beaten her; and thereafter now she has registered another present FIR in order to defame the petitioner. He submits that though the incident is alleged to have taken place in District Panipat, however, the FIR has been registered in District Jind. Learned counsel submits that the petitioner is ready to join the investigation and undertakes to cooperate in the same.

Notice of motion.

On asking of the Court, Mr. Arjun Lakhanpal, Addl. A.G., Haryana accepts notice on behalf of respondent-State and seeks time to file detailed status report in the matter. However, learned State counsel submits that since the complainant resides in Safidon, District Jind, therefore, the FIR has been registered in District Jind.

Adjourned to 17.11.2023.

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 interim 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 alongwith the details of pending

FIRs, if any, on or before the next date of hearing.”

5. Learned counsel appearing on behalf of the respondent-State has informed that the petitioner had joined the investigation and custodial interrogation of the petitioner is not required. While referring to para No.10 of the status report, learned State counsel contends that one more FIR No.108 dated 21.04.2023 under Sections 323, 324, 34, 506 IPC at Police Station Sadar Safidon, District Jind has been registered against the petitioner in which he has been released on bail.

6. Keeping in view the reasons recorded in the order dated 01.09.2023 and keeping in view the fact that the petitioner has joined investigation and the allegations *inter se* the petitioner and complainant are matter of trial, as such the present petition is allowed and the order dated 01.09.2023 granting interim bail to the petitioner is made absolute, subject to the conditions laid down under Section 438(2) Cr.P.C.

7. Nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

8. All pending miscellaneous application(s), if any, stands disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

28.05.2024

P.Bhatt

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No