

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

210+103 CRM-M-48665-2023 (O&M)
Date of Decision: 22.02.2024

AKASH ...Petitioner
Versus

STATE OF HARYANA ...Respondent

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

Present:- Mr. B.K. Majoka, Advocate
 for the petitioner.

 Mr. Kirpal Singh Thakur, AAG, Haryana.

HARPREET KAUR JEEWAN, J. (ORAL)

CRM-3502-2024

1. The present application has been filed to place on record correct head note in the petition.
2. Learned counsel for applicant/petitioner submits that Section 376 IPC has been wrongly mentioned in the head note as well as in the prayer clause of the petition, as such, correct head note be taken on record.
3. In view of the above, the present application is allowed.
4. Correct head note and prayer clause is taken on record subject to all just exceptions.
5. Office to tag the same at appropriate place.

Main case

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.71 dated 12.03.2022 registered under Sections 363, 366-A, 216, 120-B, 34 of the IPC at Police

Station Mundkati, District Palwal.

2. Learned counsel for the petitioner *inter alia* contends that the FIR was registered at the instance of the complainant with the allegation that the petitioner had enticed away the daughter of the complainant.

3. On 30.10.2023, the Coordinate Bench of this Court passed the following order:-

“Learned counsel for the petitioner would contend that in the FIR, which was registered on the complaint of the father of the victim, there were no allegations of rape. The victim got her statement recorded under Section 164 CrPC on 29.08.2022 wherein she has stated that though the petitioner had enticed the victim, however, he did not force himself upon her nor did he molest her. Learned counsel would further contend that the victim had refused to get her medical examination conducted.

Notice of motion.

On the asking of the Court, Ms. Mahima Yashpal, DAG Haryana accepts notice on behalf of the State and has filed a status report by way of affidavit of Naresh Kumar, HPS, Deputy Superintendent of Police, Palwal, District Palwal. In para 7 of the status report it has been stated that the minor refused to get her medical conducted and therefore she was not medically examined. Learned counsel for the State, on the basis of the status report, is not in a position to deny that the victim in her statement recorded under Section 164 CrPC has stated that the petitioner did not force himself upon her nor he molested her.

List on 18.01.2024.

Meanwhile, the petitioner is directed to join investigation as and when called for. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing adequate surety and personal bonds to the satisfaction of the Arresting Officer. The petitioner shall also abide by all the terms and conditions as specified in Section 438(2) of the Code of Criminal Procedure, 1973.”

4. Learned counsel for the petitioner further contends that the petitioner had joined the investigation in pursuance to the order dated 30.10.2023 passed by the Coordinate Bench of this Court.

5. Though it is mentioned in the status report, which has been filed

counsel on instructions from HC Usha confirms that the petitioner has joined the investigation.

6. Keeping in view the reasons recorded in the order dated 30.10.2023 and keeping in view the fact that the petitioner has joined investigation, his custodial interrogation is not required by the Investigating Agency, the present petition is allowed and the order dated 30.10.2023 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

22.02.2024
P.Bhatt

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