



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

251

CRA-S-2888-2023 (O&M)
Date of Decision: 22.07.2024

VISHAL DUHAN

...Appellant

Versus

STATE OF HARYANA

...Respondent

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

Present:- Mr. Jagmohan Ghumman, Advocate
for the appellant.

Mr. Pawan Kumar Jhanda, DAG, Haryana.

Mr. Karan Singh, Advocate
for the complainant.

HARPREET KAUR JEEWAN, J.

1. The appellant has filed the present appeal against the impugned order dated 25.09.2023 passed by the learned Additional District & Sessions Judge, Rohtak, whereby the application for grant of anticipatory bail moved by the appellant in FIR No.152 dated 13.05.2023, under Sections 328, 376(2)(n), 376(2)(f), 354-D, 354-A and 506 IPC read with Section 34 IPC and Sections 3(2)(v), 3(1)(s), 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station IMT Rohtak, District Rohtak, has been dismissed.

2. On 09.10.2023, the Coordinate Bench of this Court passed the following order:



‘Learned counsel for the appellant inter alia submits that the FIR in the present case has been registered on the basis of statement of the victim herself. It is stated that the appellant is 31 years of age, whereas the victim is 45 years of age. Learned counsel submits that as per the allegations made in the FIR, the appellant has been raping the victim since January 2022. It is submitted that as per the FIR itself, the last incident is of 06.4.2023, however, the FIR has been lodged after a period of more than one month i.e. on 13.5.2023 without any explanation of delay in lodging the same. It is submitted that the allegations made in the FIR are utterly false and fabricated. However, learned counsel submits that appellant is ready to join the investigation and undertakes to cooperate in the investigation, and therefore prays that the concession of anticipatory bail be granted to the appellant.

Notice of motion.

On asking of the Court, Mr. Brijesh Sharma, AAG, Haryana accepts notice on behalf of respondent-State. Learned State counsel, on instructions from DSP Ravi Khundia submits that in her statement under Section 164 Cr.P.C., the victim has supported the case of the prosecution. He submits that even as per MLR, possibility of sexual assault upon the victim cannot be ruled out.

Mr. Karan Singh, Advocate has put in appearance on behalf of complainant and filed his Power of Attorney, which is taken on record. Learned counsel for the complainant submits that the appellant has been continuously misleading and raping the victim on the pretext of marriage. Learned counsel submits that in the FIR, clear, categoric and specific allegations have been levelled against the appellant by the victim/complainant.

Learned State counsel seeks time to file the detailed status report alongwith MLR and Forensic Report, if any.

Adjourned to 07.12.2023 to enable learned State counsel to do the needful.

In the meantime, the appellant 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.’

3. Learned counsel for the appellant contends that the appellant has joined the investigation and the allegations attracting the offence under Sections 3(2)(v), 3(1)(s), 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are not alleged to be in public place.

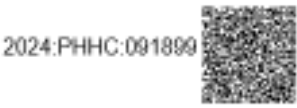


4. Learned counsel appearing on behalf of the respondent-State has informed that the appellant has joined the investigation and custodial interrogation of the appellant is not required. Learned State counsel has further informed that recovery of mobile phone has been effected.

5. Learned counsel for the complainant has opposed the appeal on the ground that appellant has been continuously exploiting the prosecutrix on the allurements of solemnization of marriage, however the appellant has refused to solemnize marriage with the prosecutrix as she belongs to scheduled caste.

6. I have considered the aforesaid contentions. The allegations attracting the offence under Sections 3(2)(v), 3(1)(s), 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are not alleged to have been made in a public place, as such Bar under Section 18 and 18-A of the Act of 1989 would not operate, in view of the judgment of the Hon'ble Supreme Court in *Manik Khanna vs. State of Punjab* in **CRA-S-1337-2022** decided on 15.02.2023. The appellant has joined the investigation and recovery of mobile phone has been effected. Allegations and counter allegations are matter of trial. Conclusion of investigation and presentation of the challan would take time.

7. Keeping in view the detailed reasons recorded in the order dated 09.10.2023, the present appeal is allowed. The impugned order dated 25.09.2023 passed by the learned Additional District & Sessions Judge, Rohtak is set aside and order dated 09.10.2023 granting interim bail to the appellant is made absolute, subject to the conditions laid down under Section 438(2) Cr.P.C.



8. Nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.
9. All pending miscellaneous application(s), if any, stands disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

22.07.2024
P.Bhatt

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