

Sr. No.208

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51595-2023
Date of decision: 20th April, 2024

RAKESH DHAWANPetitioner

versus

STATE OF PUNJAB AND ANOTHERRespondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Piyush Khanna, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

HARPREET KAUR JEEWAN, J. (ORAL)

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.79 dated 30.12.2016, under Section 376 IPC, registered at Police Station Women Cell, Amritsar, District Amritsar (Annexure P-1).
2. Learned counsel for the petitioner contends that the petitioner was granted interim bail vide order dated 11.10.2023, passed by the co-ordinate Bench of this Court, which reads as under:-

“xxxxxxx

2. *Learned counsel for the petitioner contends that the FIR has been registered on the allegations that the petitioner had developed physical relations with the prosecutrix on the false pretext of marriage. During the course of investigation, the petitioner was subjected to lie detection test and the same was favourable to the petitioner. Even, the report of DNA analysis indicate that the human semen does not belong to the petitioner. On the basis of same allegations, the prosecutrix has also instituted a complaint and the petitioner has been granted pre-arrest bail in terms of order dated 23.01.2018 (Annexure P-6). The complaint is still pending in*

the trial Court. On the conclusion of investigation, a cancellation report was submitted but the same has not been accepted. The learned Illaga Magistrate has taken the cognizance and under Section 376 IPC in terms of order dated 04.07.2023 (Annexure P-7), the petitioner has been ordered to be summoned for 06.11.2023. The occurrence took place as back as in the year 2016. The investigation of the case is over and custodial interrogation of the petitioner will not serve any purpose.

3. *Notice of motion.*

4. *Ms. Ruchika Sabherwal, DAG, Punjab accepts notice on behalf of the respondent-State. On instructions from ASI Palwinder Singh, she submits that the cancellation report was submitted in the instant case but the learned Illaqa Magistrate has taken the cognizance on the basis thereof.*

5. *The prosecutrix has also joined the proceedings in person and submits that the petitioner had been threatening her. However, it has not been disputed that on the basis of the same allegations, the private complaint has also been instituted wherein the petitioner has been granted pre-arrest bail. It has also not been disputed by her that the cancellation report has been submitted by the Investigating Agency but she submits that she was being pressurized by the Investigating Agency to withdraw the case.*

6. *Adjourned to 05.01.2024.*

7. *Meanwhile, the petitioner is directed to surrender before the learned trial Court on or before 06.11.2023 and on his doing so, he shall be admitted on interim bail to the satisfaction of the trial Court. The petitioner shall also comply with the provisions of Section 438(2) Cr.P.C.*

xxxxxxx"

3. Learned counsel for the petitioner further contends that the petitioner has complied with the aforesaid order and he has appeared before the trial Court. Thereafter, commitment order dated 19.12.2023 has also been passed by the Area Magistrate. Now the trial is pending and the petitioner is regularly

appearing before the trial Court. Copy of the commitment order dated 19.12.2023 has been submitted in the Court, which is taken on record.

4. Learned State counsel, on instructions from ASI Gurjeet Singh, confirms that the petitioner has joined investigation and his further custodial interrogation is not required. Learned State counsel submits that she has no objections if the present petition is allowed as the cancellation report has already been presented before the trial Court.

5. Today, there is no representation on behalf of respondent No.2/ complainant. Even no objection has been filed on behalf of respondent No.2 despite the fact that a specific order was passed by this Bench on 07.03.2024 for filing objections to the present petition, if any.

6. The trial is in progress. Commitment order dated 19.12.2023 has already been passed by the Area Magistrate. The trial commenced on the basis of the cognizance having been taken by the Magistrate, since the cancellation report presented by the Investigating Agency was not accepted. Custodial interrogation of the petitioner is not required.

7. In view of the reasons recorded in the order dated 11.10.2023 and keeping in view the fact that the petitioner has joined investigation and his further custodial interrogation is not required by the Investigating Agency, the present petition is allowed and the order dated 11.10.2023, granting interim bail to the petitioner is made absolute, subject to the conditions laid down under Section 438(2) Cr.P.C.

8. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

9. Liberty is reserved in favour of the State/complainant to move for cancellation/recalling of the order in case the petitioner violates any condition stipulated under Section 438 (2) Cr.P.C., or upon showing any other sufficient cause.

(HARPREET KAUR JEEWAN)
JUDGE

20th April, 2024
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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>