

Sr. No.297

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-56429-2023
Date of decision: 07th February, 2024

PAWAN ALIAS PAWAN KUMAR**Petitioner**

versus

STATE OF HARYANA**Respondent**

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Vikas Bishnoi, Advocate
for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant first petition has been filed by the petitioner under Section 438 of the Code of Criminal Procedure, 1973 seeking anticipatory bail in case FIR No.474 dated 04.09.2023, under Section 25 of Arms Act, 1959 and Sections 365, 366, 376(2)(a), 376-D and 506 IPC (Sections 365, 366, 376(2)(a), 376-D IPC deleted later on and Section 376(2)(n) IPC added later on), registered at Police Station Sadar Fatehabad, District Fatehabad (Annexure P-1).

2. There are allegations against the petitioner that the petitioner and the prosecutrix developed deep friendship and the petitioner started coming to Fatehabad to meet the prosecutrix. On 27.03.2023, the petitioner came to Fatehabad and enticed the prosecutrix and took her to a hotel located near the New Bus Stand, Fatehabad. On the pretext of marrying her, the petitioner developed physical relations with the prosecutrix without her consent. The petitioner committed rape of the prosecutrix on four different occasions in the said hotel.

3. On 08.11.2023, following order was passed:-

“xxx xxx xxx xxx

Learned counsel for the petitioner would contend that two sets of incidents have been alleged in the FIR and one is dated 27.03.2023 when the petitioner is stated to have enticed the complainant and took her to a hotel. Learned counsel for the petitioner states that the said relationship was consensual. The second set of allegations is dated 19.07.2023 where six persons have been named along with an unknown person to have committed rape upon the complainant. Learned counsel for the petitioner would further contend that as per the reply filed by the State before the Trial Court, it was stated that on 20.07.2023 the complainant had got married to one of the accused, namely, Dharmender. Learned counsel for the petitioner has also contended that five of the six accused named in the incident of 19.07.2023 were found innocent. It is further the contention of learned counsel for the petitioner that though the allegations pertained to 27.03.2023 and 19.07.2023, the FIR itself was lodged on 04.09.2023 and that there is no medico-legal report on the record.

Notice of motion.

Mr. S.K. Panwar, Addl. AG Haryana, who is present in Court, accepts notice on behalf of the respondent-State.

List on 07.02.2024.

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.

xxx xxx xxx xxx”

4. Learned counsel for the petitioner contends that the petitioner has joined the investigation in compliance of the aforesaid order dated 08.11.2023 passed by the co-ordinate Bench of this Court.

5. Learned counsel appearing on behalf of the respondent-State, on instructions from ASI Sulochna Devi, confirms that the petitioner has joined investigation and also contends that his further custodial interrogation is not required. Learned State counsel has further informed that out of 06 accused persons

being carried forward only against the petitioner and one more accused. The victim has solemnized marriage with co-accused Dharmender on 20.07.2023.

7. In view of the reasons recorded in the order dated 08.11.2023 and keeping in view the fact that the petitioner has joined investigation, his/her further custodial interrogation is not required by the Investigating Agency, the present petition is allowed and the order dated 08.11.2023 passed by the co-ordinate Bench of this Court, granting interim bail to the petitioner is made absolute, subject to the conditions laid down in 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/recall 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

07th February, 2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No