

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

322

CRM-M No.59643 of 2022
Date of Decision: 19.03.2024

Ranjit Singh ... Petitioner

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. G.K. Mann, Sr. Advocate with
Mr. Anmol Jeevan Singh, Advocate,
for the petitioner.

Mr. Satjot Singh, AAG, Punjab.

Mr. Vipul Jindal, Advocate,
for the complainant.

MANISHA BATRA, J.

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure by the petitioner seeking anticipatory bail in case bearing FIR No.0224 dated 18.11.2022 registered under Sections 450 and 376 of IPC at Police Station Lopoke, District Amritsar Rural.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of written complaint filed by the prosecutrix “M” (name withheld) alleging therein that she was married with “H” (name withheld) from the last 15 years. Her husband had been working in Dubai and used to visit home during holidays only. She had been living with her daughter and mother-in-law. The petitioner being cousin brother of her husband, his family and her in-law’s family had close relationship and they were

residing in adjoining houses also. She alleged that about one and half year back, the petitioner had started trying to maintain close relationship with her and alluring her by saying that her husband was away and he too did not like his wife. He also expressed that he liked her and wanted to have physical relations with her. The complainant had disclosed about the overtures as made by the petitioner to her mother-in-law who advised her to remain quiet to save the honour of the family.

3. As per the allegations further made, about one year back, the petitioner on the pretext of apologizing for his conduct came to her house, when she was alone and told her to prepare tea for him. She alleged that he mixed some intoxicating substance in her tea on consuming which she had become unconscious and by taking benefit of that fact, he removed her clothing, ravished her and clicked her objectionable photographs on his mobile phone. He had also made a video. She further recorded that on regaining senses, the petitioner had shown those photographs and video to her and by extending threat to make the same viral, if she disclosed about the incident to anybody, he started blackmailing her and repeatedly ravishing her. The complainant could not bear the fact that subsequently, the petitioner even started keeping an evil eye upon her daughter also and it was then that she disclosed about the acts committed by the petitioner to her husband and mother-in-law. After registration of FIR, investigation proceedings were initiated and are going on. The petitioner had moved an application for grant of anticipatory bail before learned trial Court but the same had been dismissed vide order dated 12.12.2022.

4. The present petition has been filed by the petitioner on the

grounds and it is argued by his counsel that he has been falsely implicated in this case. The prosecutrix is a 38 years old female, married from the last 15 years whereas the petitioner is about 26 years old. Infact, it was the prosecutrix had been exploiting the petitioner from the time when he was only 16 years old by taking him in her web and also by taking advantage of the absence of her husband. The petitioner being very young at that stage was not capable of exercising discretion and was sexually exploited by the prosecutrix. It is further argued that it is only after the performance of the marriage of the petitioner elsewhere and his failure to satisfy the needs of the prosecutrix that has led into filing of the FIR of this case. It is further submitted that it was case of consensual sexual relationship since long which has been given colour of rape by the prosecutrix at this stage. The custodial interrogation of the petitioner is not required. He is ready to join the investigation and to abide by the terms and conditions to be imposed by this Court. Therefore, it has been argued that he deserves to be given benefit of pre arrest bail.

5. Reply to this petition has been filed by the respondent No.2-prosecutrix and while resisting the pleas as taken in the petition, it is submitted that the allegations as levelled by her had been found to be true by the investigating agency after conducting thorough investigation. Even an inquiry had been conducted by an officer of rank of SSP. The custodial interrogation of the petitioner was certainly required for thorough investigation of the matter by the police. It has also been argued that after filing of this petition and passing of the order of grant of interim bail and joining investigation, the petitioner has extended threats to her and in this

regard, a complaint has already been filed by her which is pending. It is, therefore, argued that there are chances of petitioner's intimidating her and other material witnesses, of misusing the concession of bail, of hampering the investigation, of fleeing as well as thwarting justice if extended benefit of bail. Therefore, it is urged that the petition does not deserve to be allowed.

6. It will not be out of place to mention here that on making allegations by the respondent No.2-prosecutrix that the petitioner had been extended threats to her and on 02.04.2023, a DDR was registered in this regard, direction had been given to the State to file a status report with regard to the said DDR and as per the status report filed, the allegations so levelled were found to be false.

7. Learned State counsel assisted by learned counsel for the complainant have argued that since there are serious allegations against the petitioner, therefore, his custodial interrogation is required. More so, no extraordinary circumstance warranting exercise of powers under Section 438 of Cr.P.C. has been made out in this case. Therefore, it is argued that the petition does not deserve to be allowed.

8. I have heard learned counsel for the petitioner and complainant as well as learned State counsel and have gone through the record.

9. The allegations as levelled by the prosecutrix are that the petitioner who is cousin brother of her husband firstly tried to induce her to have illicit relationship with her and then by taking advantage of the fact that her husband lived abroad and on finding opportunity, he had committed rape upon her about one year prior to lodging of FIR, had clicked her photographs in objectionable position, made a video and thereafter by

blackmailing her and by giving threat to make those photos and video viral, he had started ravishing her repeatedly and she lodged this FIR only when he started having keeping an evil eye upon her daughter. Even on assuming all the allegations in the FIR to be correct on the face of record and on assuming that pleas as taken by the petitioner in his petition are not correct, this Court is compelled to observe that the prosecutrix is a mature lady who is 12 year older than the petitioner. Admittedly, they are close relatives. The plea as taken in the FIR is that the petitioner had firstly ravished her about one year ago after mixing some intoxicating substance in the tea which she had prepared for him and herself and thereafter on the pretext of making her photographs and video viral, he had started blackmailing her and ravishing her repeatedly. It is quite improbable and unnatural that she did not disclose about these acts as committed by the petitioner to her husband or any other member of her family and indicates that there was no intent on the part of the prosecutrix to do so may be because of the reason that it was a relationship which had been voluntarily established. She has also not disclosed the specific dates, months and years when the petitioner had ravished her on subsequent occasions. There is no medical evidence on record and in the absence of the same, it is obviously difficult at this stage to ascertain the criminality in the relationship which is likely to be adjudicated at the time of trial. It is well settled proposition of law that except where there are circumstances suggestive of fleeing from justice or thwarting the Courts of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like, benefit of bail must be extended. Since it cannot be said with any certitude at this stage that sexual acts

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committed by the petitioner with the prosecutrix were forcible or were consensual in nature. Therefore, this Court is inclined to hold that no useful purpose would be served by detaining the petitioner behind bars. In view of the discussion as made above, the petition is allowed, the order dated 21.12.2022 whereby the petitioner was directed to be released on interim bail is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C. and that:

- 1. He shall appear before the Investigation Officer/Arresting Officer within a period of 15 days from today and furnish bonds to his satisfaction;
- 2. He shall join investigation as and when called for;
- 3. He shall not directly or indirectly contact the prosecutrix, her family members or any other person/witness acquainted with the facts of the case and in case of receipt of any complaint from the prosecutrix in this regard, the protection granted by this Court shall stand cancelled.

10. However, it is made clear that the observations made herein are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

19.03.2024
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(MANISHA BATRA)
JUDGE

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