

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH
CRM-M-59840-2023
Date of decision: 13th February, 2024

Kawaljeet Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Dinesh Mahajan, Advocate for the petitioner.
Ms. Ruchika Sabherwal, DAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 438 of Cr.P.C.
seeking anticipatory bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
86	16.09.2023	Women Cell, Amritsar	376, 506 and 120-B of Indian Penal Code, 1860 (for short 'IPC')

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 statement recorded by the prosecutrix 'P' (name withheld) on 16.09.203, alleging therein that previously she used to work as a Staff Nurse in Shri Guru Ramdass Hospital, Wallah, District Amritsar. The co-accused Amarjit Kaur who is mother of the present petitioner was also working in the same hospital. The petitioner used to stalk her and gradually a friendship had been developed between them. She had, however, made it clear to the petitioner

that she would not perform marriage with him against the wishes of her parents. She alleged that she was engaged with someone on 29.03.2023 as per her own consent and then she had told the petitioner to not to have any relationship with her so as to avoid any difficulty in her marital life but the petitioner did not pay any heed and rather started threatening her that if she married elsewhere, he would cause some bodily harm to her family members and herself. On that point of time, she had told about this fact to her family members and they had asked the petitioner to stop harassing her due to which, he remained quiet for some time.

3. As per the further allegations, even the co-accused had started pressurizing her to perform marriage with her son, to which she had refused. One day, while she was in the hospital, the petitioner had come there and after snatching her phone, he had noted down the phone numbers of her in-laws family and then went away. At that time, the co-accused Amarjit Kaur had proclaimed that if the complainant would not marry with her son then her life will be spoiled. The complainant alleged that feeling scared, she had left her job at the hospital, she did not disclose anything to her parents. It was further alleged by her that on 14.09.2023 at about 10:00 AM, she had gone to hospital to take some documents when the present petitioner met her there alongwith his cousin brother Jagjit Singh and forcibly made her sit in his car while threatening that otherwise he would send their joint photographs to her in-laws family and would break her engagement. Feeling scared, she had boarded in the car and after taking her to a hotel, the petitioner had committed rape upon her against her consent and then told her

to ask her father to give a sum of ₹10,00,000/- if they wanted that her photographs would not be shown to his in-laws family. The complainant further alleged that the petitioner in connivance with his mother and cousin brother were bent upon spoiling her life. After registration of FIR, investigation proceedings have been initiated and are going on.

3. It will be relevant to mention here that vide order dated 19.01.2024, the petitioner was directed to join investigation by appearing before the investigating officer within one week and he has joined the same.

4. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. Infact, there was consensual relationship between the prosecutrix and himself and it was only when the complainant had told her parents that she wanted to marry the petitioner and not the boy with whom she was engaged that the present FIR was got registered under the pressure of her parents. It is submitted that it was not a case of rape at all. The allegations as levelled in the complaint were false. His custodial interrogation is not required. Neither any recovery is to be effected from him. Learned counsel for the petitioner has also drawn the attention of this Court to Annexure P-2 (Colly), which are photographs showing the petitioner and the prosecutrix in comfortable postures and some of these are showing their intimate relationship and Annexure P-3 which contains the chats stated to have been made by prosecutrix on the phone of present petitioner during the period from 27.07.2023 till 14.09.2023 and has argued that the petition deserves to be allowed.

5. The respondent-State has filed status report, as per which, after lodging of the FIR, the prosecutrix was medically examined. Her statement under Section 164 of Cr.P.C. was also got recorded and she had reiterated the allegations as levelled in the complaint. It is also submitted that during the course of investigation, Iqbal Singh father of the fiance of the prosecutrix also recorded a statement to the effect that the marriage between the prosecutrix and his son was fixed for 24.11.2023. The petitioner had made a call on the cellphone of his son and had told him that he was in relationship with the prosecutrix and had also sent her objectionable photographs through mobile phone to him and on account of the same, offence under Section 67 of I.T. Act, had been added. Learned State counsel has argued that there are serious allegations against the petitioner and therefore, he does not deserve to be concession of bail.

6. The petitioner is alleged to have ravished the victim as on 14.09.2023 and is also alleged to have criminally intimidated her. However, on a perusal of the *WhatsApp* chat which is shown to have taken place between them as on 14.09.2023, it is *prima facie* clear that it was the prosecutrix who had herself gone to meet the petitioner on that day and further that on the same day she had called him after 12:40 PM intimating him that her in-laws family members were coming to her house and they had some recording showing the relationship between themselves and also pleading with him not to admit that they have any such relationship. These chats *prima facie* show there was consensual relationship between the petitioner and the prosecutrix. Both of them are major. The prosecutrix had

been medically examined and no injury has been found on person. The investigation has since been joined by the petitioner, the custodial interrogation of the petitioner in no more required. It appears to be a case of consensual relationship. No recovery is also to be effected from the petitioner. As such, the order dated 19.01.2024 is made absolute, the petition is allowed and the petitioner is ordered to be admitted to be bail, subject to following conditions:-

- (i) The petitioner shall not influence/intimidate or try to meet the prosecutrix, shall not visit their house or try to influence any other witness of the case.
- (ii) the petitioner shall cooperate with the investigation and shall appear before him as and when required.
- (iii) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any Police Officer.
- (iv) he shall not commit any similar offence while on bail.

7. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with law.

8. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

[MANISHA BATRA]
JUDGE

13th February, 2024

Parveen Sharma	1. Whether speaking/ reasoned	:	Yes / No
	2. Whether reportable	:	Yes / No