

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

213

CRM-M-59985-2023

Date of Decision: 12.03.2024

Dheeraj

.... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. D.S. Matya, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Mr. Rohit Sharma, Advocate for

Mr. Navneet Kumar, Advocate for respondent No. 2.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No. 338 dated 18.10.2023, registered under Section 376(2)(n) and 506 IPC at Police Station DLF PH-III Gurugram, District Gurugram.

On 16.12.2023, when this case was listed for hearing, following order was passed by a co-ordinate Bench of this Court:-

“This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.338 dated 18.10.2023 under Sections 376(2)(n) and 506 of the Indian Penal Code, 1860 registered at Police Station DLF Phase-III, Gurugram, District Gurugram. The FIR was registered on the statement of the prosecutrix wherein she stated that the petitioner, who

is the uncle of her friend, had forcibly committed rape upon her. The alleged incident is stated to have occurred on 17.09.2023. The FIR was registered on 18.10.2023 and the medical was conducted on 19.10.2023. Learned counsel for the petitioner would contend that the parties have since compromised the matter though respondent No.2 had supported the case in her statement recorded under Section 164 CrPC. The affidavit of respondent No.2 has been appended with the petition as Annexure P-3 dated 06.11.2023. It has been stated in the affidavit that the FIR was lodged under some misconception and rage of anger. Notice of motion. On the asking of the Court, Ms. Mahima Yashpal, DAG Haryana accepts notice on behalf of respondent No.1-State. Mr. Navneet Kumar, Advocate appears and accepts notice on behalf of respondent No.2. Learned counsel for the State has filed reply by way of an affidavit dated 15.12.2023 of Vikas Kaushik, ACP, DLF Gurugram. The same is taken on record. Registry to scan the same and tag at the appropriate place. Learned counsel for respondent No.1-State has pointed to para 6 of the reply wherein it has been mentioned that respondent No.2 came to the Police Station and produced a photocopy of the affidavit dated 06.11.2023 and submitted a written application stating therein that she had voluntarily executed the affidavit and the compromise deed without any pressure or coercion.

Learned counsel for respondent No.2 states that respondent No.2 has no objection if the anticipatory bail is granted to the petitioner.

List on 12.03.2024.

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.”

Learned counsel for the petitioner submits that in compliance of the order dated 16.12.2023 passed by a co-ordinate Bench of this Court, the petitioner has joined the investigation.

On instructions from ASI Virender, learned State counsel submits that in terms of the order passed by a co-ordinate Bench of this Court, reproduced above, the petitioner has joined the investigation and is co-operating with the investigating agency, and no further interrogation is required, at this stage.

In view of the above, the order dated 16.12.2023 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join the investigation and cooperate with the investigating agency in case he is required for the same in future as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the investigating agency that the petitioner is required for the investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

12.03.2024
rishu

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No