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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

201

CRM-M No.62148 of 2023
Date of decision: 31.05.2024

Simranjit Singh

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ritesh Pandey, Advocate,
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

None for respondent No.2.

MANISHA BATRA, J.

1. The present petition under Section 438 of Code of Criminal Procedure has been filed by the petitioner seeking anticipatory bail in case bearing FIR No.127, dated 20.09.2023, registered under Sections 363 and 376 of IPC at Police Station Shri Hargobindpur, District Batala.
2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of statement recorded by the complainant “K” (name withheld) alleging therein that on 05.09.2023, at about 7 PM, she was walking outside her house, when suddenly one Alto car bearing registration No.PB024475 stopped near her. The petitioner was driving the same. He

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alighted from the car and by forcibly throwing her on the front seat of the car, sped away . The rescue alarm raised by her was of no avail due to the closed window panes. The petitioner took him to the house of some of his relatives at Village Sekhwan, wherein he committed rape upon her and she was released from his clutches on the next morning and came back to his village. She narrated the incident to her mother. Then on 20.09.2023, her sister had come to visit them and on knowing about the incident, she advised to give information to the police. After registration of FIR, statement of complainant under Section 164 of Cr.P.C. was recorded. She refused her medical examination. The investigation is underway.

3. Vide order dated 12.01.2024 passed by this Court, the petitioner was released on interim bail and was directed to join investigation.

4. The instant petition has been filed by the petitioner on the grounds and it has been argued by his counsel that there has been delay of 15 days in reporting the matter to the police which has not been satisfactorily explained. The complainant refused to get her medical examination conducted. There is dispute over the demarcation of land between the uncle and grandfather of the victim and the petitioner. The FIR of this case has been lodged to wreak vengeance upon him. His custodial interrogation is no more required. He has already joined the investigation. Therefore, it is argued that the petition deserves to be allowed.

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5. Status report has been filed by respondent No.1-State. Learned State counsel has submitted that the petitioner has criminal antecedents as in the past, he was involved in three criminal cases. It is, however, submitted that custodial interrogation of the petitioner is no more required as he has already joined the investigation on 23.01.2024.

6. The respondent No.2-complainant was given notice of this petition but did not choose to appear.

7. I have heard learned counsel for the petitioner and learned State counsel at considerable length and have gone through the record.

8. The petitioner is alleged to have kidnapped the complainant and then ravished her in the house of some of his relatives. So far as the allegations of her being kidnapped are concerned, since as per her own claim, she was 21 years old as on the date of occurrence, therefore, it is a debatable question that any case for commission of offence punishable under Section 363 of IPC is made out or not, as the very basic ingredient for applicability of this section is that the victim should be below the age of 18 years. There is no probability of any medical evidence against the petitioner coming on record since the victim has refused to get her medical examination conducted. The explanation given qua delay of 15 days in lodging of FIR does not appear to be plausible. The custodial interrogation of the petitioner is no more required as he has already joined investigation. At this stage, this Court is not required to dwell on the question that there was infact any dispute with regard to demarcation

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of some property between the family of the complainant and the petitioner. As such, no purpose would be served by detaining him in custody.

9. Keeping in view the above discussed facts and circumstances, I am persuaded to hold that the petition deserves to be allowed. Therefore, the same stands allowed and the order dated 12.01.2024 is made absolute subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

31.05.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No