

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.64952 of 2023
Date of decision: 02.05.2024

Vikash Kumar ... Petitioner

Vs.

State of Haryana and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Bhuvnesh Lakhera, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

Mr. Rohit Mittal, Advocate,
for respondent No.2.

MANISHA BATRA, J.(Oral)

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.326, registered under Sections 376 (2) (n), 354, 323, 452 and 506 of IPC at Police Station Kosli, District Rewari.

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on 19.11.2023 on the basis of statement recorded by the prosecutrix “N” (name withheld) alleging

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therein that she was a widow aged 39 years and was having 18 year old son. On the night of 18.11.2023 at around 8:30 PM, the petitioner came to her house. His head was bleeding and he tried to commit wrong act with her. She raised alarm on hearing which, her son reached there and rescued her from the clutches of the petitioner while the latter was extending beatings to her. She alleged that the petitioner had been committing wrong acts with her from last many days and even on 10.11.2023, he had committed wrong act with her. After registration of FIR, investigation proceedings have been initiated and the same are underway.

3. The instant petition has been filed by the petitioner seeking pre arrest bail. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. Infact, the complainant and himself were in consensual relationship since long time. They used to conversate with each other on phone. They had clicked photographs together in intimate positions. As on 18.11.2023, it was the complainant who had invited him to her own house when she was alone but due to sudden arrival of some relatives, who had caught them together and extended beatings to him as well due to which he had sustained serious injuries, that the complainant was pressurized to lodge FIR of this case. The custodial interrogation of the petitioner is not required. Therefore, it has been urged that the petition deserves to be allowed.

4. It will be relevant to mention here that vide order dated 22.12.2023, the petitioner was directed to join the investigation and was

extended benefit of interim bail.

5. As per the status report filed by the respondent-State, the petitioner has joined the investigation on 25.12.2023. No semen had been detected on the clothing of the complainant which could be traced to the petitioner. However, it is mentioned therein that the petitioner has criminal antecedents as three FIRs have been registered against him. It is argued by learned State counsel assisted by learned counsel for respondent No.2 that there are chances of petitioner's intimidating the complainant if extended benefit of pre arrest bail and, therefore, learned State counsel assisted by learned counsel for respondent No.2 have argued that the petition does not deserve to be allowed.

6. I have heard learned counsel for the petitioner as well as learned State counsel assisted by learned counsel for respondent No.2 at considerable length and have gone through the record.

7. The petitioner has joined investigation on 25.12.2023. His custodial interrogation is no more required. The petitioner has placed on record photographs Annexure P-3 (Colly) which show the complainant with him in intimate positions. The complainant is adult and mature female. No explanation has been given as to why she did not report the matter to the police when she had been previously ravished by the petitioner. Keeping in view the above discussed facts and circumstances but without meaning to make any comment on the merits of the case lest they prejudice the case of either of the parties, the present petition is allowed and the order dated 22.12.2023 granting interim bail to the

petitioner is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

02.05.2024

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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No