

CRM-M-65382-2023 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(101)

CRM-M-65382-2023 (O&M)

Date of decision:- 05.01.2024

BXXX ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Bhupinder Banga, Advocate
for the petitioner.
...

SUVIR SEHGAL, J. (Oral)

CRM-54671-2023

Exemption, as prayed for, is granted.
Application is allowed.

CRM-M-65382-2023

1. Instant petition has been filed under Section 439(2), Cr.P.C., seeking
cancellation of anticipatory bail granted to respondent No.2 in:-

FIR No.	Dated	Police Station	Section(s)
89	03.05.2022	Mahilpur, District Hoshiarpur.	376, 506, 120-B, IPC.

2. Version of the prosecution is that FIR, Annexure P-1, has been
registered on the statement of the petitioner-prosecutrix, stating that she is 32
years old divorcee and has two children from her marriage, who are living with
her. About 2 years ago, she came in contact with Pardeep Singh, respondent

CRM-M-65382-2023 (O&M)

-2-

No.2 (hereinafter referred to as “the accused”) on Facebook. Accused started meeting her at Mahilpur, but when his mother, Kulwinder Kaur, came to know about the prosecutrix, she disowned him and gave a complaint to the police. Accused shifted to Mahilpur, started living with her as her husband, and they developed an intimate relationship. However, on 12.04.2022, instigated by his mother, he deserted her. When Kulwinder Kaur threatened the prosecutrix on mobile phone, she gave a complaint in the Police Station. Though the accused agreed to get married to her, yet he backed out. Prosecutrix has alleged that after coercing her into physical relationship, he has ruined her life on the incitement of his mother.

3. Counsel for the petitioner has argued that after the accused was granted anticipatory bail by this Court, he got married to the prosecutrix, but he mal-treated her and threw her out of the matrimonial home. He submits that 2 DDRs, Annexures P-2 and P-3, have been registered on the statement of the prosecutrix and now FIR No.0268, has been lodged on 22.12.2023, against the accused at Police Station Mahilpur, District Hoshiarpur, under Section 323 and 379, IPC, a xerox copy of which has been placed on the record. He submits that in view of the harassment caused to the petitioner-prosecutrix, anticipatory bail granted to the accused deserves to be cancelled.

4. I have heard counsel for the petitioner and considered his submissions.

5. Accused-respondent No.2 was granted interim protection by this Court in FIR, Annexure P-1, by order dated 15.06.2022, which is not a part of the paper book, and is reproduced here under:-

“The present petition has been filed under Section 438

Cr.P.C. for grant of the anticipatory bail to the petitioner in a case

registered against him vide FIR No.89 dated 03.05.2022 under Sections 376, 506, 120-B IPC with Police Station Mahilpur, District Hoshiarpur, Punjab.

The learned counsel for the petitioner inter alia contends that the allegations against the petitioner are completely baseless. In fact, the petitioner is an unmarried boy of the age of 25 years and the prosecutrix is a married lady having two sons of 13 and 08 years of age, and it is not possible that she was misled in any manner with the promise of marriage. Even otherwise where there was a promise to marry leading to intercourse which did not subsequently fructify in a marriage that by itself would not constitute rape. Reliance is placed on the judgments passed in the cases of “Dr. Dhruvaram Murlidhar Sonar versus State of Maharashtra and others, CRA No.1443 of 2018 (arising out of SLP (Crl.) No.6532 of 2018) decided on 22.11.2018, (ii) Parmod Suryabhan Pawar versus The State of Maharashtra and anr., 2019(4) RCR (Criminal) 135”. It is further contended that the co-accused i.e. mother of the petitioner has already been granted the concession of interim anticipatory bail by this Court vide order dated 26.05.2022 (Annexure P-3).

Notice of motion.

Mr. Bhupender Beniwal, AAG, Punjab, who is present in the Court, accepts notice on behalf of the respondent-State.

Mr. Gaurav Datta, Advocate, has put in appearance on behalf of the complainant and has filed his vakalatnama in the Court today. The same is taken on record. The Registry is directed

CRM-M-65382-2023 (O&M)

-4-

to tag the same at the appropriate place of the paper-book. He contends that the seriousness of the allegations do not entitle the petitioner to the grant of anticipatory bail, more so, when he had assured the complainant that he would perform marriage with her.

Adjourned to 30.09.2022.

In the meantime, petitioner is directed to appear before the SHO/Investigating Officer to join investigation on 30.06.2022 and in the event of his arrest, he shall be released on bail on his furnishing bail bonds to the satisfaction of SHO/Investigating Agency, subject to the following conditions as envisaged under Section 438(2) Cr.P.C.:-

(i) that the petitioner shall make himself available for interrogation before the investigating officer as and when required;

(ii) that the petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case as to dissuade him/her from disclosing such facts to the Court or to any police officer;

(iii) that the petitioner shall not leave the country without prior permission of the Court and shall surrender his passport, if any.

Meanwhile, the State is directed to file an affidavit as to the exact role of the petitioner and his co-accused alongwith the details of pending FIRs, if any, on or before the next date of hearing.

To be heard alongwith CRM-M-23249-2022."

CRM-M-65382-2023 (O&M) -5-

6. In compliance of above order, accused joined and co-operated with the investigation. An affidavit was filed by the Deputy Superintendent of Police, Sub-Division Garhshankar, District Hoshiarpur, affirming this development and deposing that the accused is not involved in any other criminal activity. On a statement, made on behalf of the petitioner that she does not object to the confirmation of the interim order, above reproduced order was made absolute on 30.09.2022, Annexure P-4.
7. Concededly, petitioner has married the accused and some differences have arisen between them. Petitioner has allegedly been physically assaulted, robbed of her personal belongings and turned out of the matrimonial home. It is evident that there is a marital discord between the parties and the petitioner has lodged a criminal case against the accused. This by itself, is not a sufficient ground to cancel the bail order, which was confirmed after recording the consent of the petitioner. It is not the case of the petitioner that the accused has violated any of the conditions enshrined in Section 438 (2), Cr.P.C.
8. Finding no merit in the petition, it is hereby dismissed.
9. Any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the criminal case.

(SUVIR SEHGAL)
JUDGE

05.01.2024
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes