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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-65416-2023 (O&M)

Date of Decision: 23.01.2024

RAJESH

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Chander Pal Tiwana, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Sandeep Dhull, Advocate
for the complainant.

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SUMEET GOEL, J. (Oral)

1. This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.412 dated 27.11.2023, under Sections 376 and 450 IPC registered at Police Station Kalayat, District Kaithal.

2. On 27.12.2023, the following order was passed:-

“Prayer in the present petition is for grant of anticipatory bail to the petitioner in case FIR No.412 dated 27.11.2023, under Sections 376, 450 of IPC, registered at Police Station Kalayat, District Kaithal.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. He submits that the petitioner and the prosecutrix both are of the age of majority. It is submitted that the alleged occurrence had taken place in the matrimonial home of the prosecutrix itself in the presence of her in-laws. He has submitted that the allegations as levelled by the prosecutrix are totally improbable and thus, at the most, it is evident that it is a case of consent and there was no forcible sexual assault on the prosecutrix as alleged. He has submitted that in the facts and circumstances of the case, no offence under Section 376 IPC is made out as alleged against the petitioner.

Notice of motion.

On asking of the Court, Mr. Neeraj Sheoran, DAG, Haryana accepts notice on behalf of the State. Mr. Sandeep Dhull, Advocate accepts notice on behalf of the complainant. Both have opposed the submissions made by counsel for the petitioner.

Learned State counsel, on instructions, has submitted that the petitioner is facing criminal trial in one more case i.e. FIR No.125 dated 30.04.2022, under Sections 323, 325, 506, 341 of IPC, at Police Station Kalayat, District Kaithal, however, he is on bail in that case.

List on 23.01.2024.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting/Investigating Officer. The petitioner shall join investigation before the Investigating Agency/Officer. He shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:-

(i) That the petitioner shall make himself available for interrogation by a police officer as and when required to do so.

(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 so as to dissuade him from disclosing such facts to the court or to any police officer.

(iii) That the petitioner shall not leave India without prior permission of the court.”

3. Learned State counsel on instructions from ASI Jai Bhagwan, has stated that pursuant to the order dated 27.12.2023, the petitioner has joined investigation and is no longer required for custodial interrogation. Learned counsel for the complainant has opposed the grant of anticipatory bail on the ground that the allegations made against the petitioner are very serious & hence he does not deserve the concession of pre arrest bail.

4. In view of above, the interim order dated 27.12.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

5. This order should not be treated as “blanket” order. It will not be interpreted as granting petitioner indefinite protection from arrest. It

shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

6. Liberty is reserved in favour of State/complainant to move for cancellation/recall of this order in case the petitioner violates any condition stipulated under Section 438(2) Cr.P.C., 1973 or upon showing any other sufficient cause.
7. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.
8. Pending application(s), if any, shall also stand disposed off.

23.01.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No