



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-5242-2025 (O&M)
Date of decision : 31.01.2025

Tushar KumarPetitioner

V/S

State of HaryanaRespondent

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Ms. Suman Kumari, Advocate for the petitioner.

Ms. Gaganpreet Kaur, D.A.G., Haryana.

Mr. Kartar Singh, Advocate for the complainant.

NAMIT KUMAR, J. (ORAL)

CRM-3941-2025

Prayer in the instant application filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 is to implead the complainant Mxxxx daughter of Nxxx Kxxxx, resident of Shiv Vihar, Tractor Market, Rasulpur Chowk, Palwal, Tehsil and District Palwal as respondent No.2 in the main petition.

Notice in the application.

Ms. Gaganpreet Kaur, D.A.G., Haryana accepts notice on behalf of the respondent-State.

In view of the averments made in the application, the same is allowed and the complainant is impleaded as respondent No.2.

Amended memo of parties is taken on record. Registry is directed to place it at its appropriate place.

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1. This petition has been filed by the petitioner under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking anticipatory bail in case FIR No.212 dated 16.12.2024 registered under Sections 323, 34, 376(2)(n), 498-A and 506 of Indian Penal Code, 1860 at Police Station Women Police Station Palwal, District Palwal.

2. Present FIR was got lodged by the complainant alleging that she and Tushar (the petitioner) became friend on Facebook in July, 2020. Thereafter, they exchanged mobile numbers and started talking to each other. One day, the petitioner took the complainant at Faridabad where he given her a cold drink. After drinking the same, she became unconscious and when she regained her senses, she found herself in a room in a naked condition. The petitioner forcibly committed rape upon her and also made photos and videos of her in nude condition and threatened her if she would tell anyone, then, he will make her videos and photos viral on social media and defame her and also threatened to kill her and her family. The petitioner took advantage of the situation and kept raping her again and again. Thereafter, whenever the complainant tried to make complaint against the petitioner, he started apologizing and assured her that he will marry her. On 02.01.2023 & 02.02.2023, the petitioner called the complainant at Faridabad and raped her on the pretext of marriage. After this, when the complainant went to the petitioner's house, the mother of the petitioner requested her not to take any legal action against her son and she said that she will get complainant married to her son in two months. After this the petitioner

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stopped picking up her calls, so complainant met his mother again, then his mother changed her tone and said that she cannot get her son married to her, if complainant take any legal action, she will make complainant's nude photos and videos viral with the help of her son and will implicate complainant in a false case. Thereafter, the complainant had given an application regarding this on 19.06.2023 to Women police station, Palwal, after which the petitioner solemnized marriage with the complainant on 27.06.2023 in Arya Samaj Mandir in the presence of relatives of both the parties. Her in-laws told her that they will take the complainant home with them in the month of November. Thereafter, the petitioner called her several times to meet him at hotel in Faridabad and had physical relations with her and also forced her to have unnatural sexual relations and when the complainant refused to do so then the petitioner abused and beat her and threatened to kill her. Thereafter, family members of the complainant went to her in-laws house many times and asked them when will they come to take complainant but they did not give any answer. When the complainant talked to her in-laws, they told her that she has not brought any dowry with her, so they will not bring her to their house and they made illegal demands of a Baleno car and two lakh rupees in cash, furniture and other things in dowry.

3. Learned counsel for the petitioner has contended that the petitioner is innocent and has been falsely implicated in the present case. He argued that there was love affair between the petitioner and the complainant and they used to meet with each other. On 27.06.2023, they performed marriage against the wishes of complainant's family. After



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their marriage, parents of the complainant took her with them and under their pressure, the complainant moved a complaint against the petitioner and his family members. He contended that the custodial interrogation of the petitioner is not required and he is ready to join the investigation.

4. Per contra, learned State counsel assisted by learned counsel for the complainant has opposed the prayer for grant of anticipatory bail to the petitioner on the ground that on the pretext of marriage, the petitioner has committed rape on the complainant many times and when the complainant moved complaint dated 19.06.2024 to Women Police Station, Palwal, the petitioner compromised the matter with the complainant and solemnized marriage with her to shield himself. He further argued that after marriage, the petitioner did not take the complainant to her matrimonial home and rather raised the demand of dowry from her. He further submits that custodial interrogation of the petitioner is necessary for thorough investigation of the case, therefore, he does not deserve the concession of anticipatory bail.

5. I have heard learned counsel for the parties and perused the record.

6. As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. (now Section 482 of the Bharatiya Nagrik Suraksha Sanhita, 2023) is somewhat extraordinary in character and it is to be exercised only in exceptional cases, where it appears that the person may be falsely implicated or



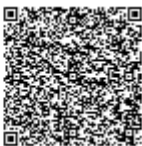
where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

7. As per the prosecution, the petitioner has forcibly committed the offence of rape on the complainant on several occasions on the pretext of marriage. When the complainant made a complaint to Women Police Station, Palwal, the petitioner compromised the matter with the complainant and solemnized marriage with her only to shield himself from any unwanted legal action. After marriage, the petitioner did not take the complainant to her matrimonial home and along with his family members raised demand of dowry. The allegations against the petitioner are serious in nature. Custodial interrogation of the petitioner may provide information leading to discovery of material facts. Curtailing of his freedom is necessary in order to enable the investigation to proceed without hindrance and to protect witnesses at this stage.

8. Reliance can be placed upon the Hon'ble Supreme Court dictum passed in ***Prem Shankar Prasad v. The State of Bihar and another, 2021(4) RCR (Crl.) 598*** and ***Anil Kumar Singh v. High Court of Judicature at Patna through its Registrar General and another, (2020)19 Supreme Court Cases 364*** whereby the Hon'ble Apex Court had denied the concession of anticipatory bail in view of the gravity of offences and the conduct of the petitioner.

9. No other point has been argued.

10. In view of the facts and circumstances of the case, I am of the considered view that petitioner cannot *prima facie* be said to have



been falsely enroped in the crime, since he has solemnized the marriage with the complainant just to shield himself from the clutches of law and for lowering the gravity of the crime which he has committed against the complainant and therefore, his custodial interrogation is necessary in the case and that petitioner may abscond and misuse his liberty and does not deserve concession of anticipatory bail.

11. In view of the above, the petition is dismissed.
12. However, nothing stated hereinabove shall be construed as a final expression of opinion on the merits of the case.

31.01.2025
kothiyal

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No