



CRM-M-6815-2025

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

**CRM-M-6815-2025
Date of Decision: 05.02.2025**

Om Parkash

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Kuldip Singh, Advocate for the petitioner.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 482 of BNSS, 2023 for grant of anticipatory bail to the petitioner in case FIR No.23 dated 15.03.2024, under Sections 376 & 506 IPC, registered at Police Station Vairo Ke, District Fazilka.

2. Learned counsel for the petitioner submitted that it is a case where the allegations were made by the prosecutrix that the petitioner had committed rape upon her. He further submitted that as per the allegations, the petitioner had picked up the prosecutrix on his motorcycle and forcibly grabbed her arm and took her to a motor room where she raised alarm but he did not listen to her and had forcibly committed rape upon her without her consent. He also submitted that the petitioner has been falsely implicated in the present case because it was a case of consensual relationship between the petitioner and the prosecutrix and the present FIR was a concocted story made by the prosecutrix and therefore, the petitioner may be considered for grant of anticipatory bail. Learned counsel has referred to an affidavit of the



prosecutrix (Annexure P-2) wherein she had stated that no offence has been committed by the petitioner and it was with her consent.

3. At this stage, Ms. Seena Sandhu, Addl. AG, Punjab has submitted that she has received an advance copy of the present petition and has also sought instructions in the present case. She submitted that it is a case where a serious offence has been committed by the petitioner and as per the FSL report, even semen has been detected when the medical examination of the prosecutrix was conducted. She also submitted that the aforesaid affidavit which has been relied upon by the learned counsel for the petitioner cannot be considered in view of the fact that the affidavit was not even a sworn in affidavit and was not duly executed. She further submitted that it is a case where for the purpose of elicitation of the truth, the custodial investigation of the petitioner is highly required.

4. I have heard the learned counsels for the parties.

5. It is a case where the petitioner is seeking anticipatory bail. Learned counsel for the petitioner has stated that the relationship between the petitioner and the prosecutrix was consensual relationship and has referred to Annexure P-2 which is purported to be an affidavit. However, a perusal of the aforesaid vernacular of the affidavit (Annexure P-2) would show that it is only in a format of affidavit which is stated to be signed by the prosecutrix and is not even sworn in or duly executed and therefore, the same cannot be said to be an affidavit. The reliance made by learned counsel for the petitioner on such a document is absolutely misconceived and is liable to be rejected outrightly. No such kind of document can be seen into for the purpose of consideration of the anticipatory bail.



6. It is a case of the learned State Counsel that even in the FSL report, semen was detected when the medical examination of the prosecutrix was conducted. This Court is of the considered view that the submissions which have been made by the learned State counsel that considering the gravity of the offence involved and for the purpose of elicitation of the truth the custodial investigation of the petitioner is required, carries weight and cannot be ignored.

7. In view of the aforesaid facts and circumstances of the case and considering the gravity of the offence involved, this Court does not deem it fit and proper to grant anticipatory bail to the petitioner. Consequently, finding no merit in the present petition, the same is, hereby, dismissed.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

05.02.2025

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |