



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CRM-M-30851-2024

Date of Decision: 09.01.2025

RAVI PARJAPATI

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:- Mr. Parminder Singh Rai, Advocate for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. Vivek Gupta, Advocate for complainant.

KIRTI SINGH, J. (Oral)

1. Apprehending his arrest the petitioner has filed this petition under Section 438 Cr.P.C. for grant of anticipatory bail in case bearing FIR No.26 dated 19.04.2024 under Sections 313, 376(2)(n) and 506 IPC registered at Police Station Women, Bhiwani.

2. The following order was passed on 15.10.2024:-

“Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.26 dated 19.4.2024 (Annexure P-1) under Sections 313, 376(2)(n) and 506 IPC, registered at Police Station Women, Bhiwani.

Learned counsel for the petitioner, inter alia, submits that the petitioner was admittedly in a consensual relationship with the complainant. It is submitted that the allegation made in the FIR that the petitioner administered some medicine to the complainant, due to which her pregnancy was terminated, is false and fabricated. In this regard learned counsel for the petitioner refers to the medical record of the complainant (Annexure R-3), as per which the complainant had gone to Ashirwad Hospital, Bhiwani on 21.6.2023 for ultrasound, whereupon on 23.6.2023 she was referred to Vardan Hospital. Learned counsel refers to the Certificate dated 27.4.2024 (Annexure R-4) issued by the Ashirwad Hospital, wherein it is certified that the complainant had come to the hospital on 21.6.2023 at which time she was pregnant of 04 weeks and 05 days as per the ultrasound report. It is stated that there is nothing stated either in the Status Report or on the record as to what transpired after the complainant was found to be pregnant and was admittedly referred to Vardan Hospital on 23.6.2023. Learned counsel further submits that the complainant is an adult lady; and both, the complainant and the petitioner were in a consensual relationship. As per law the same does not constitute an offence under Section 376 IPC. It is further submitted that in any event as per the statement made by the complainant under Section 164 Cr.P.C. (Annexure R-1) the last sexual relation between the petitioner and the complainant was of December 2023, however, the FIR has



been registered on 19.4.2024. In support of his contentions learned counsel for the petitioner relies upon the judgment of Hon'ble Supreme Court in Beerbal Prasad Rajoriya vs. State of Madhya Pradesh 2022(4) RCR (Criminal) 699 wherein it is held that "allegations made in First Information Report that incident in question occurred five months before First Information Report was lodged and attending circumstances, grant of anticipatory bail with directions". Learned counsel also relies upon the judgment of co-ordinate Bench of this Court in Baljeet Kumar Rao vs. State of Haryana and another Law Finder Doc Id#1045434 wherein it is held that "false promise to marry-Prosecutrix and accused were already married and their marriage was still subsisting-both of them were in relationship for last 11 years-Complainant could not have been induced into any physical relationship based on assurance of marriage-relationship was consensual-acknowledged consensual physical relationship does not constitute the offence under Section 376 IPC because both the parties were married-complaint quashed". Learned counsel for the petitioner has also handed over photocopy of the Marriage Card dated 19.4.2022 as per which the marriage of the complainant was to be solemnized with one Dharmender on 20.4.2022. Learned counsel for the petitioner prays for grant of interim relief to the petitioner and undertakes that the petitioner will join the investigation and co-operate with the Investigating Agency.

Notice of motion.

On asking of the Court, Mr. Surinder Kumar Dagar, DAG, Haryana accepts notice on behalf of respondent-State and Mr. Vivek Gupta, Advocate has put in appearance and filed Power of Attorney on the last date of hearing i.e. 25.9.2024.

Learned counsel for the State assisted by learned counsel for the complainant vehemently oppose the prayer made on behalf of petitioner and submit that an offence under Sections 313 and 314 IPC is also made out against the petitioner and therefore he is not entitled to the concession of anticipatory bail. As regards to purported marriage of the complainant, it is submitted that the same never took place as the petitioner had promised to marry her.

Adjourned to 09.1.2025.

In the meantime, the petitioner is directed to appear before the SHO/Investigating Officer to join investigation and in the event of his arrest, he shall be released on interim 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 ;

sii) 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/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, State counsel is directed to file an affidavit as to the exact role of the petitioner alongwith the details of pending FIRs, if any, on or before the next date of hearing."

3. Status report filed by learned State counsel is taken on record.

Learned State counsel on instructions from ASI Urmila submits that in compliance of order dated 15.10.2024, the petitioner has joined the investigation and is not required for any further investigation.

4. Having considered the aforesaid facts and circumstances, the petition is allowed. Order dated 15.10.2024 passed by this Court, is hereby made absolute.



5. This order should not be treated as "blanket" order. It will not be read granting the 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. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency to investigate into the charges against the petitioner.
7. The accused/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 or her from disclosing such facts to the Court or to any police officer.
8. The accused/petitioner shall not leave India without prior permission of the Court.
9. The accused/petitioner shall join the investigation as and when called by the police.
10. It will be open to the police or the investigating agency to move to this Court for a direction under Section 439(2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

09.01.2025
Kavita

(KIRTI SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No