

CRM-M-61110-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-61110-2024
Reserved on: 13.01.2025
Pronounced on: 30.01.2025

Rajesh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vikas Gulia, Advocate
for the petitioner.

Mr. Naveen K. Sheoran, DAG, Haryana.

Mr. Ashwani Gaur, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
342	21.10.2020	Murthal, District Sonipat	120-B, 190, 328, 342, 355, 387, 506 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. In paragraph 12 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“2. That the instant FIR came into being on the basis of complaint made by complainant Haripal Son of Rajender Singh, stated that I am resident of Village Machrola, Police Station Murthal, District Sonipat and doing the work of Property dealer in Sonipat City. That I know Rajesh @ Kala Resident of Village Lath and Surrender s/o Kale, Caste Jat and Resident of Mahandipur from many days and they also engaged in the business of Property dealing and reside in Flat No. 202 at TDI SPINIA ROYAL Village, Nangal. On 04.09.2020, I received a telephonic call at around 11 Hrs. from Surrender S/o Kala from his mobile No. 88130xxxxx to my mobile No. 83978xxxxx and invited me at Flat for urgent conservation

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over work. When I reached at flat I found that Rajesh@ Kala and Surender present there and one young girl was also present in the flat and they started continue talk to me and give me tea for drink and after that I don't know what happened with me and after one hour I regain consciousness and Rajesh @ Kala and Surender told me that we fetched pornographic photo and video with this girl and forced me to pay 20 Lakh otherwise they will falsely implicate me in rape case and I told that I have not so much money and in the meantime one women also came there and they snatched the key of my car and my mobile phone and attempted to tied me but I succeed to released myself from their clutches and run away from there. I don't know the name and address of those two girls but can identify by seeing their faces. That after reaching at home I disclosed the entire incident to my wife Kailash and my son Jaldeep and my wife talked to Rajesh alias Kala over phone and Rajesh told that I will compromise the matter with above mentioned girl in lieu of money. My wife told him to return the key of car and mobile at this he replied that first arranged the money and thereafter offered to give vehicle and mobile and also offered for compromise and Rajesh told to my wife that if you tried to disclose to police they would registered a false rape case against Haripal. But after sometime Rajesh settled this matter by grabbing of Rs. 1,50,000/ instead of Rs. 20 Lakh. On dated 07.09.2020 my wife and my son handed over Rs. 1,50,000/- to Rajesh and his friends after sitting in the car and they returned our vehicle and phone and Rajesh told to my wife that now they would not registered rape case against her husband and told that now I made a compromise between you and that girl. On dated 20.09.2020 Rajesh @ Kala again made telephonic call to my wife from his mobile No. 83072xxxxx to my wife mobile No. 74191xxxxx and he additionally demanded 53000/-. That previously I did not disclosed the incident to any one due to reputation and shame and now I disclosed the entire incident to my relatives and I came along with them to submit my complaint. That Rajesh @ Kala and Surender in collusion with both women after trapped me in their tactics and showed me the fear of false case, and in this way they cheated Rs. 1,50,000/- from me and they also told that if I told to police they would kill me. The complainant sought for strict legal action against the accused person.”

4. Petitioner’s counsel seeks bail on the grounds that they have settled the matter with the victim. Even the counsel representing the victim submits that they have no objection if this Court grants anticipatory bail to the petitioner. However, counsel for the State of Haryana opposes the bail and submits that the offenses are serious and the

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petitioner and co-accused are not entitled to bail at all. The state of Haryana has referred to the prayer clause of the reply dated 10.01.2025 filed by the Assistant Commissioner of Police, Sonipat, and seeks dismissal of bail.

5. The allegations leveled by the victim point towards a new scam that is happening through honey trapping. It is indisputable that a large number of such scams are taking place, and probably the majority of the scams are going unreported because the victim does not want to project that he had gone to an escort, thereby diminishing the family prestige in the conservative society of this region. As such, this Court would consider the evidence to analyze whether the petitioner is entitled to bail or not.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“4. That during the investigation agreement executed lease/rent on dated 01.06.2020 between owner of said flat namely Ram Niwas and Surender has also been taken into possession, which bearing signatures of Surender as tenancy. During the investigation statements of witnesses were recorded and other relevant evidences were also collected and after completion of thorough, fair and impartial investigation, final report under section 173 Cr.P.C. was filed against the accused Sejal Sharma and Meenu on 29.04.2021.

5. That in view of order dated 14.12.2020 passed by Hon'ble High Court, Surender came to join the investigation of the case on 23.12.2020 at 10:00 AM alongwith his mother Smt. Phoolmati but while joining investigation, he did not cooperate with the investigating agency and kept on giving evasive reply and he even did not sign the documents and he left the police station with his mother on the pretext of getting clicked photographs but he did not return to join the investigation and in this regard, DD no. 16 dated 23.12.2020 was also recorded in police station and thereafter, he did not join the investigation. It is submitted that vide order dated 01.09.2021, Hon'ble High Court directed Surender to join the investigation on 02.09.2021 at 10:00 AM but he did not comply with the said order and vide order dated 03.09.2021, one last opportunity was granted to Surender to join investigation on or before 07.09.2021 at 10:00 AM and in view of order dated 03.09.2021, passed by Hon'ble High Court, Surender joined the investigation of this case on 07.09.2021 and while joining investigation he suffered disclosure statement and admitted his guilt and also disclosed that Rajesh (the petitioner), Sejal Sharma, and Meenu Handa are known to him since a long time and they have extracted money from various persons under the pretext of implicating them in rape case

and outraging of modesty cases.

EVIDENCE AGAINST THE PETITIONER

6. That the incrementing evidences against the petitioner are that the statement of the complainant and statement of wife of the complainant and the statement of son of the complainant are on record. The disclosure statement of the co-accused Sejal Sharma, Meenu Handa and Surender Pathan surface the name of the petitioner and disclosed the petitioner as the main conspirator in the present case. That the security guard of society where the petitioner reside gave his separate statement against the petitioner and the person namely Sashibala wife of Karambir Singh R/o village Akbarpur Barota and Sumitra W/o Rajender R/o Adrash Nagar, Sonipat gave money to the wife of the complainant at the time gave their statement which are on record. The conversation between the complainant's wife and the petitioner is on record. That the share of money has been spend and the mobile by which he used to in conversation with the wife of the complainant has been destroyed by the petitioner which attract section 201 of IPC for destroying the evidences.

THE ROLE OF THE PETITIONER;-

7. That the petitioner is one of main conspirator in the present case, and actively participated in commission of offence, the petitioner used to grab money from person with pretext to falsely implicate them in false rape case and outraging of modesty in collusion with other accused. That simultaneously the petitioner and other accused had also duped other person also. The complainant has disclosed the name of the petitioner as well as other co-accused had also suffered name of the petitioner in their disclosure statements, that the petitioner was involved in the said offence.”

7. Perusal of the above evidence clearly points and indicates that there is sufficient prima facie evidence against the petitioner.

8. However, another important consideration that this Court cannot ignore, is that the incident occurred in 2020, and we are in 2025. Further, one of the co-accused, Surender, had made a disclosure statement about the involvement of the petitioner way back on 07.09.2021. It means that police had more than 3 ½ years to arrest the petitioner, and they did not do so. Even all the superior officers would be aware of the non-arrest of the co-accused, and it shows that the police did not want to arrest the petitioner, and there is no other explanation that would give the reasons for the petitioner's non-arrest. The investigations are perused right up to the top, and this Court does not want to put the

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blame on anyone, but it is time to introspect. The delay led the complainant to compromise the matter with the petitioner. After a gap of four years, it would be highly unjust for this Court to reject the anticipatory bail. On this ground alone, this Court is inclined to grant bail, subject to the condition that if the petitioner is found in any other case of honey trapping, extorting money in the name of sex, using women to allure other persons to get money, or any cybercrime or any extortion whatsoever, State shall file the application before the Trial Court for cancellation of bail, and the trial Court shall be empowered and competent to cancel the bail or to modify the conditions.

9. The petitioner did not aver that they had taken any prior permission from this Court to enter into a compromise; thus, if the situation arises, it might attract prosecution under Section 182 IPC against the complainant. Regarding the complainant entering a compromise, the recourse is always open to prosecution for violating Sections 181 and/or 182 IPC if the stage arises.

10. However, it is clarified that if the complainant and the accused move before the Court to quash the FIR based on the compromise, then the order of such Court qua compromise shall supersede that portion of this order, which it makes observations.

11. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

12. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

13. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage.

14. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

15. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty

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Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

16. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

17. This order is subject to the petitioner’s complying with the following terms. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

18. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

19. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

20. It is clarified that if the petitioner violates any bail condition, the State and/or the victim may file an application for bail cancellation before the trial court, which shall be competent to cancel the bail or add more conditions. Furthermore, if the petitioner moves for deletion or dilution of any bail conditions, the trial court is empowered to do so.

21. Any observation made hereinabove is neither an expression of opinion on the

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case's merits nor shall the trial Court advert to these comments.

22. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

23. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.01.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.