

2025:PHHC:047545



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

Sr. No.210

**CRM-M-62066-2024 (O&M)
Date of decision : 7.4.2025**

Keshav Dhall

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. K.P. Singh, Advocate, for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

Mr. Rahul Chauhan, Advocate, for the complainant.

KIRTI SINGH, J. (Oral)

1. Prayer in the present petition filed under Section 482 of Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) is for grant of anticipatory bail to the petitioner, in case FIR No.83 dated 30.10.2024, under Sections 323, 376(2)(n), 506 & 509 IPC, registered at Police Station Women, District Yamuna Nagar.

2. Vide order dated 11.12.2024, the petitioner was directed to join the investigation, which is reproduced below:-

Prayer in this 1st petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of anticipatory bail to the petitioner in case FIR No. 83 dated 30.10.2024 registered under Sections 323, 376(2)(n), 506 and 509 IPC at Women Police Station District Yamuna Nagar.

Learned counsel for the petitioner, inter alia, submits that the petitioner and the complainant/victim were neighbours and had met in the year 2016. It is submitted that the complainant/victim was a divorcee lady at that time and was having 02 children. As such, the petitioner and the complainant had developed consensual relationship. It is the case of the petitioner that they have not met since 2021. In this regard, learned counsel for the petitioner refers to the messages

2025:PHHC:047545



(Annexure P-3) sent by the complainant/victim to another neighbour of the petitioner thereby asking him to facilitate a meeting of the complainant with the petitioner.

It is submitted that there are allegations in the FIR to the effect that the petitioner had initiated physical relations and committed rape upon the complainant on the pretext of marriage. Learned counsel submits that the aforesaid allegations are false and fabricated as, it was a consensual relationship between the 02 adults. In support of his contentions, learned counsel relies upon latest judgment of the Hon'ble Apex Court in **Prashant vs. State of NCT of Delhi: (SC) : Law Finder Doc Id # 2665805** arising out of Special Leave Petition (Criminal) No. 2793 of 2024, decided on 20.11.2024, wherein it has been held that "It is inconceivable that the complainant would continue to meet the appellant or maintain a prolonged association or physical relationship with him in the absence of voluntary consent on her part."

Further, it is submitted that there is substantial delay in registration of FIR as the last incident is of the year 2021; whereas the present FIR was registered on 30.10.2024. It is also pointed out by learned counsel for the petitioner that the present FIR was registered under the provisions of Indian Penal Code; whereas the said statute now stands repealed, therefore, the present FIR ought to have been filed under the provisions of Bharatiya Nyaya Sanhita, 2023. Nothing has to be recovered from the petitioner, therefore, his custodial interrogation is not required. The petitioner is ready to join the investigation as and when required and shall abide by all the terms and conditions imposed upon him.

Notice of motion.

On the asking of Court, Mr. Surinder Kumar Dagar, DAG, Haryana, accepts notice on behalf of respondent-State; whereas Manoj Pundir, Advocate has put in appearance on behalf of the complainant and submits Vakalatnama, which is taken on record.

Learned counsel for the State assisted by learned counsel for the complainant vehemently opposes the prayer for grant of anticipatory bail to the petitioner and submits that there are serious allegations in the FIR against the petitioner. It is stated that on 14.10.2024, the petitioner had called the complainant/victim, to his house whereupon he and his brother had beaten her up; and on the said date, the petitioner had also refused to marry the complainant. Learned counsel for the State points out that there is an MLR dated 15.10.2024 with regard to the incident dated 14.10.2024, in which there are 02 external injuries shown on the person of the complainant/victim; one being 'an abrasion on the occipital region of the skull with swelling and the second injury is complaint of pain in abdomen'. It is further pointed that with regard to sexual assault upon the victim/complainant there is another MLR dated 30.10.2024 on record, as per which the last date of incident was September, 2024. Further, it is submitted that there are even allegations to

2025:PHHC:047545



the effect that the petitioner had extorted money to the tune of Rs.17,32,000/- from the complainant/victim on various accounts; and in the year 2019 an amount of Rs.2000/- was transferred by the complainant in the account of the petitioner.

Learned counsel for the petitioner counters the above-said submission made by learned counsel for the State and the complainant by submitting that the alleged beatings of 14.10.2024 are falsified by the screen shots of CCTV footage of the said date available on record as Annexure P-2. As regards to extortion of money, learned counsel for the petitioner submits that there is no proof in respect of the same. Even the present FIR bears no offence under Section 420 or 406 IPC.

Heard.

*At this stage, reference can also be made to a recent judgment of the Hon'ble Apex Court in **Mahesh Damu Khare vs. The State of Maharashtra and another**, arising out of Special Leave Petition (Criminal) No. 4326 of 2018, **decided on 26.11.2024**, wherein in para-No.22, it has been held as under:-*

"22.Thus, in a situation where physical relationship is maintained for a prolonged period knowingly by the woman, it cannot be said with certainty that the said physical relationship was purely because of the alleged promise made by the appellant to marry her. Thus, unless it can be shown that the physical relationship was purely because of the promise of marriage, thereby having a direct nexus with the physical relationship without being influenced by any other consideration, it cannot be said that there was vitiation of consent under misconception of fact."

In view of the above and keeping in view the totality of the facts and circumstances of the case, 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;

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/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.

Adjourned to 07.04.2025.

Meanwhile, State counsel is directed to file an affidavit/status report as to the exact role of the petitioner along with the details of pending FIRs, if any, on or before the next date of hearing.

2025:PHHC:047545



3. Learned State counsel on instructions from ASI-Babita submits that in compliance of order dated 11.12.2024, 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 11.12.2024 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(s) 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(s).
7. The accused-petitioner(s) 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(s) shall not leave India without prior permission of the Court.
9. The accused-petitioner(s) 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 483(3) of BNSS, 2023 (erstwhile Section 439(2) of Cr.P.C.) to arrest the accused-petitioner(s), in the event of violation of any term, such as absconding, non-cooperating during

2025:PHHC:047545



investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

7.4.2025
Ramandeep Singh

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