

(2012) 07 P&H CK 0264

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Misc.-M No. 38830 of 2011 (O and M)

Sucha Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: July 17, 2012

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 438(2)(i)(ii)
- Penal Code, 1860 (IPC) - Section 34, 376, 377, 450, 506

Hon'ble Judges: Nawab Singh, J

Bench: Single Bench

Advocate: N.S. Swaitch, for the Appellant; Kirat Singh Sidhu, DAG, Punjab and Ms. Ekta Thakur, Advocate, for the complainant, for the Respondent

Final Decision: Allowed

Judgement

Nawab Singh, J.

This is an application for anticipatory bail filed in case bearing First Information Report No. 123 dated August 26, 2011 under Sections 376,377 and 506 read with Section 34 of the Indian Penal Code, Police Station Chamkaur Sahib, District Ropar. Story of the prosecution is that on August 25, 2011, prosecutrix, a widow having two married sons, was present at her house. Petitioner along with Hardev Singh came to her house. Both of them started taking drinks (liquor) at her house. She objected to it, but they continued drinking. Hardev Singh asked her to pay him Rs. 50,000/-, which she had taken from petitioner in order to compromise with the petitioner in another case bearing First Information Report No. 17 dated January 25, 2010 registered u/s 376 and 450 of the Indian Penal Code in Police Station Chamkaur Sahib, District Ropar. She refused to pay the amount. She went to her bedroom. Petitioner followed her. He laid her down and raped her and also committed unnatural offence. She raised alarm whereupon the petitioner along with Hardev Singh managed their escape.

2. Rajan Gupta, J. vide order dated February 1, 2012 granted interim anticipatory bail to the petitioner subject to the conditions laid down u/s 438 (2) (i) (ii) and (iii) of the Code of Criminal Procedure.

3. Learned counsel for the petitioner has contended that earlier thereto, a case was registered against the petitioner vide First Information Report No. 17 dated January 25, 2010 referred to above on the statement of the prosecutrix. The said FIR was quashed by this Court vide judgment dated May 27, 2011 (Annexure P2) because prosecutrix compromised the matter with him. For reference, it would be appropriate to refer paragraph No. 2 of the said judgment. The same reads as under:

Respondent No. 2 presently aged about 40 years was married with late Krishan Lal about 20 years back. The husband of respondent No. 2 died about 5 years back and thereafter, the petitioner respondent No. 2 started living with the petitioner. Both the petitioner and respondent No. 2 started residing together like husband and wife in the same house. Due to some money dispute, misunderstanding developed between the parties and then because of temperamental differences, respondent No. 2 got FIR in question registered against the petitioner. However, the matter has been compromised due to the intervention of the respectable of the area. Affidavit (Annexure P2) has also been placed on record in this regard.

4. The learned counsel for the petitioner has further contended that aforesaid paragraph makes it clear that petitioner and the prosecutrix were living-in-relationship and whenever there was a dispute between them, she makes such type of false allegations against the petitioner. Normally in cases u/s 376 IPC, anticipatory bail should not be granted but herein it is the case of the prosecutrix herself as per the compromise deed (Annexure P1) filed in the earlier case registered against the petitioner and the paragraph quoted above that both of them were living as husband and wife. Prosecutrix is a widow having two married sons.

5. Learned State counsel has stated that pursuant to the order dated February 1, 2012, the petitioner has joined the investigation and is not required for custodial interrogation. In view of above, the order dated February 1, 2012 is made absolute. Application is accepted accordingly.