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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3374-2025
Date of decision: 05.02.2025

PAWAN KUMAR

...Petitioner(s)

VERSUS

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Abhimanyu Singh, Advocate and
Mr. Shekhar Thakur, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. Namit Khurana, Advocate for respondent No.2.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 482 of the BNSS, 2023 for the grant of anticipatory bail to the petitioner in FIR No.04 dated 04.01.2025, under Sections 64(1), 89, 123 and 351(2) of BNS, 2023, registered at Police Station: Women Police Station, Karnal, Haryana.

2. On the last date of hearing i.e. 21.01.2025, notice of motion was issued and today status report has been filed by way of an affidavit of Deputy Superintendent of Police, Women Safety, Karnal in the Court by the learned State counsel and the same is taken on record.

3. A copy of the aforesaid status report has already been supplied to the learned counsel for the petitioner by the learned State counsel, who has stated that he has gone through the same.



4. The present FIR dated 04.01.2025 is reproduced as under:-

"To Superintendent of Police, Karnal. Subject: Complaint for taking legal action against 1) Pawan Son of Juwari Lal Phone No. 9812870900 and 2) Poonam wife of Pawan residents of new Balmiki Basti, Hansi Road, Karnal on account of committed rape at the pretext of providing job, blackmailing, insulting through social media or threatening of life. Sir, it is requested that I Ritu wife of Rajiv Kumar is resident of New Balmiki Basti, Hansi Road, Karnal. My neighbourer namely Pawan told me that he is having good link in Karnal Corporation and he will arrange job in Karnal Corporation and for this purpose accused Pawan demanded an amount of Rs.2 Lakh. I did not inform my family members regarding this and gave Rs.1 Lakh to accused on different dates after selling my jewellery. After some time when I showed my inability to pay more money then accused no.1 called me and gave a cold drink with stupefying substance, due to which, I was not in my senses and Pawan made forcible physical relations with me. After 2-3 days, accused Pawan against called me by making call through his mobile no. 9812870900 on my mobile and asked me to meet and he took me towards Kachhwa in his tempo traveller bearing registration No.HR-45D-8936 and he made forcible physical relations with me and while performing this act, he said that he is having my previous obscene photographs and in case, I did not make physical relations with him, he will make the photographs viral on social media. In this manner, accused Pawan made forcible physical relations with me on various occasions by blackmailing me. In the month of November, I told to accused Pawan that I am pregnant, then the accused Pawan forcibly made me consume some tablets, due to which, I



remained ill for 15-20 days. On 25.12.2024, when the I was complaining to accused Pawan about this on telephone then my husband Rajiv heard the entire conversation then I narrated the entire incidents to my husband. When my husband talked with accused Pawan then he started quarrelling with him and when I alongwith my husband went to the house of Pawan then accused no.2 Poonam wife of Pawan threatened us that if they again visited her house, she will implicate us in a false case. Now Pawan continuously blackmailing me by saying that make physical relations with me otherwise he will upload obscene photographs in social media. Therefore, it is requested to your goodself that legal action may please be taken against the accused persons. I shall be highly thankful to you. Thanking you dated 04.01.2025. Place: Karnal Sd/- Ritu. Ritu wife of Rajiv Kumar resident of New Balmiki Basti, Hansi Road, Karnal."

5. Learned counsel for the petitioner submitted that there had been an abuse of the process of law on the part of the complainant by lodging the present FIR. He submitted that as per the allegations, the petitioner had committed rape upon the complainant-prosecutrix, who is stated to be of the age of 35 years but the aforesaid allegations get totally demolished in view of the fact that the present FIR has been lodged on 04.01.2025 which was by way of *mala fide* reasons on the part of the complainant-prosecutrix. In this regard, he referred to Annexure P-2 to show that the husband of the complainant-prosecutrix had rather made a complaint to the police on 29.12.2024, which was prior to the registration of the aforesaid FIR by stating that his wife i.e. the complainant-prosecutrix is having illicit relationship with the petitioner and he has come to know about the same through phone recording and when he asked



his wife about the same then she has rather admitted that she is having illicit relationship with the petitioner and in case he initiates any legal action, then she will commit suicide. The aforesaid complaint dated 29.12.2024 (Annexure P-2), which is addressed by the husband of the complainant-prosecutrix to the Police Post Incharge, Sadar Bazar, Karnal, is reproduced as under:-

*Diary No. 1908-A/29.12.2024
ASI Narendar Kumar*

TO,

*Police Post Incharge
Sadar Bazar
Karnal*

Sir,

It is request that I, Rajiv S/o Ramesh Kumar am R/o Balmiki Basti. My wife Ritu used to talk with Pawan and she is having illicit relation with him and I came to know about this fact through phone recording and when I asked from my wife in this regard then she admitted that she is having illicit relation with Pawan and she threatened me that if I initiate any legal action against her and Pawan in that eventuality she will commit suicide and will implicate my entire family members and she further threatened that she will eliminate me and my family member with the help of Pawan. When we discussed this matter with the family member of the guild then they did not respond and my life is in danger from the hands of Pawan, therefore kindly take legal action against Pawan.

*Sd/- Applicant
Rajiv Kumar*

6. Learned counsel for the petitioner further referred to Annexure P-3, vide which the aforesaid complaint (Annexure P-2) was withdrawn by the



husband of the complainant-prosecutrix, namely, Rajiv Kumar. The aforesaid Annexure P-3 is also reproduced as under:-

TO,
Police Post Incharge
Sadar Bazar
Karnal

Sir,

It is request that I, Rajiv S/o Ramesh Kumar am R/o Balmiki Basti, Hansi Road. I had given complaint against my wife Ritu and Pawan, in which, I do not want to initiate any action.

Sd/- Rajiv Kumar
Sd/- Sunita
Sd/- Ritu

7. Learned counsel for the petitioner also submitted that it was the case of the husband of the complainant-prosecutrix, who had complained to the police vide Annexure P-2 that his wife is having illicit relationship with the petitioner and the complainant-prosecutrix is stated to be of the age of 35 years. He further submitted that a perusal of the FIR would show that the allegations which have been made by the complainant-prosecutrix are that there arose a money dispute between her and the petitioner because as per the allegations, the petitioner had promised the complainant-prosecutrix for getting a job in Karnal Corporation but thereafter, he gave something to her in the cold drink and made relations with her and also threatened her that her photographs will be put on the social media. He further submitted that the allegations in the FIR itself suggest that they are totally contrary to what was stated by the husband of the complainant-prosecutrix before the police vide Annexure P-2 and even otherwise also, as per the FIR the complainant-prosecutrix has alleged that some earlier obscene photographs of the petitioner and the complainant-



prosecutrix were with the petitioner, which suggests that earlier also there was a relationship between the petitioner and complainant-prosecutrix and therefore, each and every allegation in the FIR is self-contradictory and lodging of the present FIR based upon concocted story is an abuse of the process of law and therefore, the petitioner may be considered for the grant of anticipatory bail.

8. Learned counsel for the petitioner also submitted that he has specific instructions from the petitioner to state that the petitioner will not only join the investigation but will also fully cooperate with the investigation process at every stage as and when called by the Investigating Officer.

9. On the other hand, Mr. Vishal Kashyap, DAG, Haryana submitted that the allegations against the petitioner are very serious because as per the allegations, the petitioner had mixed something in the cold drink and thereafter, committed rape upon the complainant-prosecutrix. He further submitted that so far as the age of the complainant-prosecutrix is concerned, she is 35 years of age and is married with one Rajiv Kumar, who had given a complaint to the police vide Annexure P-2.

10. Mr. Namit Khurana, Advocate has put in appearance on behalf of respondent No.2 and has filed his power of attorney in the Court today, which is taken on record. He submitted that the petitioner has on the basis of false promises made to the complainant-prosecutrix with regard to getting employment in Karnal Corporation had taken some money from her and when the financial dispute arose between them, he committed rape upon the complainant-prosecutrix. He further submitted that the allegations against the petitioner are serious in nature and therefore, he may not be considered for the grant of anticipatory bail.



11. On a query being raised to the learned counsels for the parties as to whether the medical of the complainant-prosecutrix was conducted or not, to which all of them have stated that although medical was conducted on 06.01.2025 but as per the medical report, the samples were not taken and it was only stated in the report by the Medical Officers that possibility of rape cannot be ruled out.

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

13. The prayer in the present petition is for grant of anticipatory bail to the petitioner. It is a case of the learned counsel for the petitioner that the petitioner has been falsely implicated in the present case by the complainant-prosecutrix, who is of the age of 35 years and is married with one Rajiv Kumar. A perusal of the complaint made by the aforesaid Rajiv Kumar to the police vide Annexure P-2 dated 29.12.2024 as reproduced above would show that he had alleged that his own wife, who is the complainant-prosecutrix is having illicit relationship with the petitioner, which he later on withdrew vide Annexure P-3. The present FIR came to be lodged after about 5-6 days i.e. on 04.01.2025, in which the complainant-prosecutrix had alleged that because of the financial dispute, the petitioner had committed rape upon her.

14. After hearing the learned counsels for the parties, this Court is of the considered view that for the purpose of considering the grant of anticipatory bail, a balance has to be made between the nature of allegations and the Right of Liberty as enshrined under Article 21 of the Constitution of India. In order to arrive at a balance between the two, Annexure P-2 and Annexure P-3 which have been reproduced above when read with the FIR would show that the significance of the same and effect of Annexure P-2 cannot be ignored. While



considering the prayer of the petitioner for grant of anticipatory bail and his prayer that there had been an abuse of the process of law by alleging a false complaint against him, this Court is of the view that considering the aforesaid totality and circumstances of the present case and the fact that even in the medical, no samples were taken, the balance will fall in favour of Right to Liberty of the petitioner.

15. Learned counsel for the petitioner has also stated on specific instructions from the petitioner that in case the petitioner is granted the concession of anticipatory bail then he will not only join the investigation but will also fully cooperate with the investigation process as and when called by the Investigating Officer.

16. In view of the aforesaid facts and circumstances, the present petition is allowed. It is directed that in case in future the petitioner is required to join the investigation process, then he shall join the investigation and cooperate fully with the investigation process. In the event of arrest, the petitioner shall be released on bail by the Arresting/Investigating Officer on his furnishing bail bonds/sureties to his satisfaction, subject to the conditions as provided under Section 482(2) of the BNSS, 2023.

05.02.2025
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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