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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-57825-2024

Date of Decision:- 05.02.2025

VIPIN SHARMA

...Petitioner

Vs.

STATE OF HARYANA

...Respondent

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. G.S. Sullar, Advocate and Mr. Haneesh Kumar,
Advocate for petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

Mr. Arjun Dhingra, Advocate for the complainant.

AMARJOT BHATTI, J.

1. Petitioner - Vipin Sharma has filed instant petition under Section 482 of BNSS, 2023 for grant of anticipatory bail in FIR No. 326 dated 28.10.2024 under Section 69 of BNS registered at Police Station Old Faridabad, District Faridabad, Haryana (Annexure P-1)
2. Learned counsel for petitioner argued that petitioner was granted interim bail vide order dated 20.11.2024 by Coordinate Bench of this Court and relevant portion thereof runs as under:-

“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. 326 dated 28.10.2024 (Annexure P-1) registered under Section 69 of the Bharatiya Nyaya Sanhita, 2023, at Police Station Old Faridabad, District Faridabad, Haryana.

Learned counsel for the petitioner, inter alia, submits that the victim in the present case is 25 years old grown up lady who is working in the same company as that of the petitioner. The petitioner and the victim became friends in April, 2024 and thereafter by mutual consent physical relations have developed between them. It is submitted that the petitioner had made it very clear to the victim/complainant that he will not marry against the wishes of his family; and with this knowledge the victim had willingly entered into physical relations with the petitioner. Now, the present FIR has been lodged by the victim/complainant on 28.10.2024, alleging that the petitioner had committed rape upon her on the pretext of marriage. It is argued that consensual physical relations between two adults does not constitute an offence under Section 376 IPC.

In support of his contentions, learned counsel for the petitioner has relied upon judgment of the Hon'ble Apex Court in Vinod Gupta vs. State of Madhya Pradesh and another 2024(2) RCR (Criminal) 175 and Mandar Deepak Pawar vs. The State of Maharashtra and another 2022(4) RCR (Criminal) 274, as per which consensual physical relationship between two adults does not constitute an offence under Section 69 of the BNS, on the pretext of marriage.

Further, it is submitted that in the present case, the one incident of rape had allegedly occurred on 02.07.2024; however, FIR was registered on 28.10.2024 after delay of almost 04 months. 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 Mr. Arjun Dhingra, Advocate, has put in appearance on behalf of the complainant and submits memo of appearance, which is taken on record. Learned counsel undertakes to furnish Vakalatnama in the Registry within a period to 02 weeks from today. 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 the petitioner has admitted the factum of physical relations with the victim/complainant; as such, petitioner has admitted to the offence. It is contended that the petitioner with deceitful means coerced the victim/complainant to enter into physical relations as, he had promised to marry her. It is further submitted that record of the hotel has also been taken into police custody wherein entries of both, the petitioner and the complainant/victim, are available.

Heard.

Adjourned to 05.02.2025.

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;

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.

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.”

3. Learned counsel representing petitioner states that in pursuance of aforesaid order, petitioner has already joined investigation and he is still ready to cooperate, therefore, interim bail granted in his favour may be confirmed.

4. Status report is filed confirming the fact that present petitioner has joined investigation on 09.12.2024 and he fully cooperated. No recovery is to be effected from him. Even then in status report it is alleged that custodial interrogation is required for thorough investigation.

5. I have considered the aforesaid factual position. Since petitioner has joined investigation in pursuance of order dated 20.11.2024, no purpose would be served by sending petitioner behind the bars. He is still ready to join investigation as and when required. Therefore, interim bail already granted vide order dated 20.11.2024 stands confirmed subject to the same terms and conditions as detailed

under Section 482 (2) of BNSS, 2023.

6. Petition is, accordingly, disposed of.
7. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(AMARJOT BHATTI)
JUDGE

05.02.2025
snd

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