

**In the Court of Mrs. Anjana, Additional Sessions Judge,
Fast Track Special Court, Hoshiarpur
UID No.PB0448**

CIS No. BA : 191 of 20.01.2023
CNR No. PBHO0100 0522 2023
Date of Decision: 24.01.2023

Bhupinder Singh aged 23 years son of Jagdish Mittar alias Jagdish Bharaj,
resident of village Dhamian, Tehsil Mukerian, District Hoshiarpur.

.... Applicant/accused

Versus

1. State of Punjab.
2. Complainant/prosecutrix (name withheld) d/o Gulwinder Singh
resident of Ward No.14, Dashmesh Nagar, Mukerian, Tehsil
Mukerian, District Hoshiarpur.

.... Respondents

Complaint under Sections 376, 354, 354B, 506, 420, 406, 499,
500, 34 IPC, 66, 67A, 67 of I.T. Act, pending in the court of Sh.
Manik Kaura, learned JMIC, Mukerian

First application for anticipatory bail under Section 438 Cr.P.C.

Present: Sh. Amit Katoch Advocate for applicant/accused
Sh. Sandeep Kumar, Addl. PP for the State
Sh. Jasjeet Singh Advocate for complainant

ORDER

1. This order of mine shall dispose of bail application under
Section 438 Cr.PC, filed by above named applicant/accused, seeking
anticipatory bail in private complaint filed by complainant/prosecutrix in
which applicant/accused has been summoned by the learned JMIC,
Mukerian to face trial under Sections 376, 354B, 506 IPC.

2. Notice of bail application was given to respondents and the
lower court record was called.

(Anjana) – UID No.0448
Addl. Sessions Judge,
Fast Track Special Court, Hoshiarpur

3. The learned counsel for applicant/accused has vehemently contended that before filing the present complainant, earlier the complainant has moved application before the police by levelling same allegations as raised in the present complaint, but no FIR was registered. Rather enquiry was conducted by the SHO of PS Mukerian and after enquiry, it was found that both the complainant and accused are major and friends and they developed consensual physical relations and in respect to misconception of fact in regard to solemnization of marriage, nothing has been revealed during enquiry. That enquiry report of SHO was approved by the SSP, Hoshiarpur and the application was filed. It is contended that thereafter present complaint has been filed before the learned Magistrate and the applicant/accused has been summoned by the learned Magistrate under Sections 376, 354D, 506 IPC. It is contended that it is purely a case of honey trap and the whats chat of complaint produced on record clearly shows that she used to trap the boys by sending her nude photographs and thereafter blackmailed them in order to extract money and she used to send her bank account for sending money in her account. From the whats app chat, it is also found that she has one boy friend residing at Canada and she has also developed physical relations with the said boys and has sent her nude photographs to him. So she is habitual to extract money by levelling such like allegations and so many boys have been trapped by her. It is contended that since after the enquiry into the allegations levelled by the complainant, the police has already declared the applicant/accused as innocent, in the

present complaint case, no custodial interrogation of applicant/accused is
(Anjana) – UID No.0448
Addl. Sessions Judge,
Fast Track Special Court, Hoshiarpur

required. Even the learned Magistrate has not complied with the provisions of Cr.PC and he has not sought the report from the concerned police station to take cognizance. So the summoning order passed by the learned Magistrate is not proper. As the present is a complaint case, nothing is to be recovered from the applicant/accused nor he is required for any custodial interrogation. Hence, it is prayed that it is a fit case, where relief of anticipatory bail can be granted to applicant/accused and therefore, present bail application may be allowed.

4. On the other hand, learned Addl.P.P. for the State and the learned counsel for complainant vehemently opposed the contentions of learned counsel for the applicant/accused and argued that there are specific allegations against the applicant/accused. It is contended that the court is not bound by the police enquiry. It is not a case of forcible rape, but it is a case of misconception of fact in regard to development of physical relations for solemnization of marriage. During the preliminary evidence before the learned Magistrate, the complainant has led documentary evidence and Ex.C1 is the application moved by the complainant before the SHO, PS Mukerian against accused, after which compromise Ex.C3 was effected on 05.10.2021 that ring ceremony of prosecutrix will be performed on 10.10.2021 with accused and date for marriage will be fixed later on. Ex.C4 is the entry of register of police in respect to application moved by complainant against the accused for developing physical relations with her on the pretext of marriage and later on he refused for the same. The photographs of complainant with accused are also produced on record. So

(Anjana) – UID No.0448

Addl. Sessions Judge,

Fast Track Special Court, Hoshiarpur

the summoning order passed by the learned Magistrate is proper. Thus, due to gravity and seriousness of the offence, the present accused/applicant does not deserve the concession of anticipatory bail. Lastly, prayer is made for dismissal of the bail application.

5. After giving my careful and thoughtful consideration to the rival contentions and on careful perusal of averments of application, contents of FIR coupled with the duly assistance rendered, the Court is of the considered view that present bail application merits dismissal. Perusal of record shows that before moving the present complainant, complainant/victim has moved application before the SHO PS Mukerian bearing No. 1507 dated 18.09.2021 against accused for developing physical relations with her on the pretext of marriage and thereafter he refused to solemnize marriage with her. During enquiry, compromise was effected on 05.10.2021 by the respectable and both the parties had agreed to perform ring ceremony on 10.10.2021 and the application of complainant was filed. Thereafter the complainant filed present complaint against the accused before the learned Area Magistrate, Mukerian, under Sections 376, 354, 354B, 506, 420, 406, 499, 500, 34 IPC, 66, 67A, 67 of I.T. Act with the allegations that after the compromise dated 05.10.2021, accused resiled from the compromise and threatened to viral her videos. The complainant/prosecutrix has levelled allegations that in the month of November 2020, accused Bhupinder Singh started chatting with her on mobile application i.e. snap chat and with malafide intention trapped her in his love and assured that he will marry her and by taking her into his talks, (Anjana) – UID No.0448
Addl. Sessions Judge,
Fast Track Special Court, Hoshiarpur

he compelled her to develop sexual relations with him and forcibly raped her. Thereafter accused took her to many places and after making false promise and threatening to viral her videos, he committed rape upon her. She asked the accused many times to marry her, but he made lame excuses on one pretext or the other. Finally, on 12.09.2021, accused refused to marry her. On the basis of preliminary evidence led by complainant before the learned Magistrate, the accused has been summoned by the learned Magistrate under Sections 376, 354B, 506 IPC, vide order dated 07.01.2023. Thus, from the perusal of record, it reveals that there are serious allegations levelled by the complainant/prosecutrix against the accused. So far as the contentions urged before this court by the learned counsel for the applicant/accused are concerned, the same are matter of trial and shall be taken into consideration later on at the time of final arguments. Therefore, due to the gravity and heinous nature of offence involved in this case, this court does not find it a fit case for according concession of anticipatory bail. Hence, the present bail application being bereft of any substance is hereby dismissed. Lower court record be returned and file of bail application be consigned to record room.

Pronounced
24.01.2023
baljinder

(Anjana)
Additional Sessions Judge,
Fast Track Special Court,
Hoshiarpur

(Anjana) – UID No.0448
Addl. Sessions Judge,
Fast Track Special Court, Hoshiarpur

CIS No. BA : 191 of 2023 CNR No. PBHO0100 0522 2023

Present: Sh. Amit Katoch Advocate for applicant/accused
Sh. Sandeep Kumar, Addl. PP for the State
Sh. Jasjeet Singh Advocate for complainant

Lower court record received. Sh. Jasjeet Singh Advocate filed power of attorney on behalf of complainant. Arguments heard. Vide my separate order of even date, the bail application with respect to accused Talwinder Singh has been dismissed, for the reasons as indicated therein. Lower court record be returned. File be consigned to the Record Room.

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(Anjana)
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(Anjana) – UID No.0448
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