

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ Bail Application No.201 /2009

% Reserved on :02.02.2009
Date of decision:09.02.2009

SUNAYNA GROVER ...Petitioner

Versus

STATE ...Respondent

WITH

+ Bail Application No. 202/2009

CHUNKEY @ VIKAS GROVER ...Petitioner

Versus

STATE ...Respondent

WITH

+ Bail Application No. 203/2009

RAINA GROVER ...Petitioner

Versus

STATE ...Respondent

Advocates who appeared for the parties

For Petitioners : Mr.Mohit Chaudhary, Advocate

For State : Mr.Arvind Gupta, APP for State

For complainant : Mr.Dhan Mohan, Advocate

CORAM:
HON'BLE MR. JUSTICE MOOL CHAND GARG

1. Whether the Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

MOOL CHAND GARG, J.

1. This common order shall dispose of the aforesaid three bail applications filed on behalf of Sunyana Grover D/o Sunil Dutt Grover, Chunkey Grover S/o Sunil Dutt Grover, Raina Grover w/o Sunny Narchal and D/o Sunil Dutt Grover who all are undergoing trial in a case arising out of FIR No.489/2006 under section 5 of ITP Act, read with Sections 376,120B, 34 IPC registered at Police Station West Patel Nagar, New Delhi and are all in judicial custody since 17.7.2008.
2. According to the counsel for the applicants, the applicants are entitled to bail inasmuch as, the complainant /Chitra has lodged the present FIR as a counterblast to the case pending before the CAW Cell filed by Raina, the sister of the applicants - Sunayna and Chunky on 17.8.2006 against her husband Sunny, Father in law Surendra and the complainant/Chitra. It is their case that all the family members have been falsely implicated by the complainant so as to save her family members. It is submitted that story projected has been tested by the IO in his interim report and nothing has come out. Moreover the complainant

failed to identify the Sardar(who is alleged to be a customer in the alleged prostitution business) and other customers in her FIR. It is also submitted that even the charge sheet submitted by the police did not reveal any finding, evidence or any other material against the applicants which can implicate them in the aforesaid matter. The filing of FIR after 9 months of the alleged incident leaves a big question of doubt inasmuch as she had not explained the reason for such delay. It is further submitted that the applicants are having no criminal background whatsoever and are of young age and are permanent resident of Delhi and no more required for any investigation. It is thus submitted that the applicants, having clean antecedents are entitled to be released on bail.

3. Regarding the applicant, Sunayna Grover, who is related to Raina as her elder sister, it is also stated that she was hardly 21 years of age at the time of the alleged incident and has no criminal antecedent whatsoever. It is further submitted that applicant moved the anticipatory bail application when she was under protection from arrest vide order dated 11.09.2006. Thereafter when she was arrested from her house she moved a bail application which was rejected by the Ld. ASJ vide order dated 26.7.2008, feeling aggrieved by the said order applicant approached this court on 12.1.2009 whereby she was directed to move the bail application before the Sessions court which has been dismissed vide order dated 27.01.2009 whereby it was held

that the applicant/Sunayna in conspiracy with other co-accused persons forced the complainant for prostitution by threatening her. It is also submitted that other accused who allegedly committed rape on the body of the complainant have already been granted bail by the Sessions Court namely Harish Sachdeva, Sunil Gulati and Rajesh Jaggi. It is also submitted that there is no evidence against them which connects the applicants with crime.

4. Regarding the second applicant, Chunkey Grover @ Vikas Grover, it is stated that he was young boy of 20 years at the time of his arrest. It is further submitted that after the registration of the FIR the applicant approached the court for seeking grant of anticipatory bail and vide order dated 11.09.2009 he was protected from arrest. Thereafter he was arrested on 25.7.2008 and moved regular bail application which was rejected by Ld. ASJ vide order dated 8.9.2008. He then challenged the same before the High Court where he was also directed to move before the Sessions Court where his application was dismissed vide order dated 27.01.2009.

5. Lastly regarding the third applicant i.e. Raina Grover, it is stated that she is a young lady of 23 years of age and she has infant daughter of three years and was also protected by the order of 11.09.2006 from being arrested. Subsequently applicant moved a Bail application which was rejected vide orders dated 26.7.2008 and feeling aggrieved by the said order the applicant also moved before this Court and same directions were given

which was given to the earlier two applicants whereby her bail application was also rejected by the Ld. ASJ on 27.1.2009 on the same grounds. As stated above, Raina filed a complaint against Sunny, her husband and her in laws before the CAW Cell and it is for that reason the present complaint has been filed as a counter blast. It is also submitted that the story of the prosecution which alleged that the complainant was enticed from her matrimonial house by the applicants and thereafter was subjected to rape is even otherwise unbelievable.

6. The application for bail of Sunayna has been opposed by counsel for the State. According to them, her mother (Anita Grover) and her brother Chunkey forced the complainant into prostitution. It is also alleged that the complainant had identified three other persons namely Harish Sachdeva, Sunil Gulati and Rajesh Jaggi before whom she was produced for prostitution by the applicants. Complainant has also given five mobile numbers which are: 9313987707, 9350458742, 9312743224, 9810361378 & 9871134633 and on the scrutiny of the call details, it was found that there was lot of communications between all the five numbers and the phone numbers of Harish Sachdeva with whom the complainant was compelled to prostitution was found in the call details of the above five numbers. It is also alleged that phone numbers 9350458742 and 9312743224 were got issued on the fake identity and used by the accused. It is further submitted that 4 audio cassettes were recorded separately which

contained conversation between Sunayna/accused and her husband and her in laws. She had admitted before her husband & in laws that she was involved in prostitution before marriage and customers were being sent to her matrimonial home by her mother and brother. The applicant did not give her voice sample despite the order of the court.

7. The application for Chunkey Grover has been opposed on the ground that FIR has been registered under section 5 of the ITP Act, read with sections 376, 120B, 34 IPC on the allegations of the complainant that she was forced into prostitution by the applicants by threatening and beating her and if she discloses this fact to anyone she would be killed. Accused has also threatened her that a blue film had been prepared which could be shown to others in case of her refusal to carry on prostitution. It is also submitted that the complainant is the real sister in law of the accused Raina Grover while the applicant is the brother of Raina Grover. It was further submitted by the Ld. Counsel for the state that it is pertinent to mention here that accused persons had taken 5 mobile numbers mentioned aforesaid and on scrutiny it was very much found that there were lot of communications between all the 5 numbers and even the phone number of Harish Sachdeva was found in the call details with whom the complainant was compelled for prostitution.

8. Application of Raina Grover has been opposed on the ground that the allegations against her are of grave nature and

that she may threaten the prosecution witnesses in case she is admitted on bail. It is also mentioned by the counsel for the state that allegations made by the complainant are that she was forced into prostitution by her Bhabi who is also the applicant herein and by the other close relatives namely sister in law Sunayna, the brother as well as mother by using the means of threatening to defame or kill her.

9. Learned Counsel for the applicants relied upon the judgment of *Priya Patel Vs. State of M.P.*, (2006) 6 SCC 263, wherein it has been held :

“Under the definition of rape under section 375 and 376 a woman cannot be prosecuted for gang rape even if she facilitates the act of rape.”

10. I have given my thoughtful consideration to the rival submissions. In the peculiar facts of this case, which shows that the applicants have been implicated by Chitra, the prosecutrix/complainant, whose testimony needs to be looked into taking into consideration the past history of litigation between Raina, who is wife of Sunny, the brother of the complainant and taking into consideration the period already spent in jail by the applicants and the fact that co-accused, who are the alleged rapists, have already been released on bail, the applicants are also entitled to bail as the possibility of false implication cannot be ruled out at this stage.

11. Accordingly, I admit all the applicants to bail in FIR No.489/2006 under section 5 of ITP Act, read with Sections 376,120B, 34 IPC registered at Police Station West Patel Nagar, New Delhi on their furnishing personal bond in the sum of Rs.25,000/- (rupees twenty five thousand) each with one surety each in the like amount to the satisfaction of the Trial Judge subject to the conditions that they shall not leave the city of Delhi, shall report on every alternate Monday at 10 am before the concerned SHO, shall deposit their passports, if any, with the concerned Trial Court and shall not intimidate the witnesses and will not try to delay the trial of this case on false pretext.

12. Bail applications stand disposed of. Dasti.

MOOL CHAND GARG, J.

February 09, 2009