

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-21648 of 2016

Date of decision : 28.06.2016

Manish Patial

... Petitioner

versus

State of U.T. Chandigarh

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Kuljit Singh Bal, Advocate for the petitioner

Mr. Sukant Gupta, APP for U.T. Chandigarh

ANITA CHAUDHRY, J. (ORAL)

The petitioner is seeking regular bail in FIR No. 266 dated 19.05.2015 registered at Police Station South Sector 34, U.T. Chandigarh under Sections 420/467/468/471 IPC.

A complaint was given by Timsy against 5 police officials who had forcibly entered her house without a lady police official during night time. Allegations were also made that they were drunk and had harassed her. The stand of the police was that they had visited the house since a call was made that some illegal activities were going on in the house. The police obtained the voice recording and called the complainant to identify the voice. It was the complainant who stated that the caller was the friend of her husband. According to the police the complainant was having strained relations with her husband and the call had been made by the petitioner to harass her. The police recorded a supplementary statement. It is stated that an enquiry was held against the police official and were given a clean chit. The police started further investigation to check the background of the petitioner and while collecting the details of the mobile from which the call was made it was found that the documents which were furnished to procure the sim card were those of Avtar. A case of cheating and forgery was registered.

Learned counsel for the petitioner contends that instead of taking action against the police officials on the complaint made by Timsy the police had arrested the petitioner on the allegation that complaint was made by him to the police on No. 100 and he is in custody since 21.05.2016. He further states that police is not taking any action against the police officials who were at fault and to save their skin

investigation has been turned. It was urged that the petitioner will face the trial and investigation is over and whatever recovery has to be made has been made from him.

The counsel representing the respondent had urged that an enquiry was held and a finding was recorded that the police had visited the house since there was a complaint and no official was at fault and the voice recording has been sent to the CFSL. It was urged that during investigation it was also found that the sim card had been taken on fabricated documents and, therefore, Sections 420, 467, 468 and 471 IPC were added. The counsel further urges that Gaurav Suri the estranged husband is absconding and investigation has been held up.

The original complaint was against the police officials. The complainant had identified the voice to be that of the petitioner. The State has been unable to show that any complaint had been made by Avtar Singh against the petitioner. The voice samples have already been taken. No recovery is to be effected.

Without commenting anything on the merits of the case and considering the fact that the trial will take time to conclude, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bonds to the satisfaction of the trial Court/Duty Magistrate. The petitioner would deposit his passport with the Court at the time of furnishing bail bonds.

June 28, 2016

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**(ANITA CHAUDHARY)
JUDGE**