

**CRM-M-14025 of 2017**

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**In the High Court of Punjab and Haryana at Chandigarh**

**CRM-M-14025 of 2017**

**Date of Decision:18.5.2017**

**Balbir Singh**

**---Petitioner**

**vs.**

**State of Punjab**

**---Respondent**

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

**\*\*\***

**Present:** Mr. G.S.Bedi, Advocate  
for the petitioner  
Mr. Ankur Jain, AAG, Punjab  
Mr. Sahil Khunger, Advocate  
for the complainant

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**Rekha Mittal, J.**

The petitioner prays for grant of bail in anticipation of arrest in FIR No. 27 dated 17.3.2017 under Sections 354, 451 of the Indian Penal Code (in short "IPC") registered at Police Station, Arniwala, District Fazilka.

Counsel for the petitioner has submitted that the petitioner is working as Assistant Sub Inspector at Police Station, Arniwala, Fazilka, Punjab. He has been falsely indicted in the crime at the behest of Manjit Kaur complainant. It is argued that the petitioner was investigating complaint No. 63 dated 13.1.2017 received from the Punjab State Power Corporation Limited against relatives of the complainant, marked for verification and action by the Station House Officer, Police Station, Arniwal

on 14.1.2017. It is further submitted that petitioner was the investigating officer in FIR No. 384 dated 11.11.2008 under Sections 454, 380 IPC registered against the complainant, her father and brother, therefore, the complainant nursed a grudge against the petitioner. Another submission made by counsel is that FIR No. 146 dated 13.11.2008 under Sections 452, 323, 148, 149 IPC was registered at Police Station, City Fazilka against the complainant and her father in which the complainant was convicted vide judgment dated 23.4.2013 passed by the Chief Judicial Magistrate, Fazilka. The last submission made by counsel is that no recovery is to be effected from the petitioner, therefore, his custodial interrogation is not required when otherwise he is ready to face proceedings, in accordance with law.

Counsel representing State of Punjab has opposed the prayer with the submission that illegality imputed to the petitioner that while he was in police uniform, he entered house of the complainant and molested her gets substantiated from video recording in the mobile phone produced in the Court in terms of order dated 16.5.2017 passed by the court, recording in a compact disc and photographs already a part of investigation. It has further been argued that the petitioner was never assigned the work of verification of complaint No. 63 dated 13.1.2017 received from the Punjab State Power Corporation Limited, therefore, there was no occasion for the petitioner to go to house of the complainant and commit the offence.

Counsel for the complainant would urge that in view of gravity of allegations against the petitioner, a member of disciplined force, he is not entitled to pre arrest bail, a concession to be allowed by the Court. It is further submitted that the complainant has already been acquitted of the

offence registered vide FIR No. 384 dated 11.11.2008 in which the petitioner is stated to be the investigating officer. It is further submitted that brother of the complainant has brought the mobile in which recording has been made and the same can be examined by the Court and seized by the Investigating officer.

It is pertinent to mention at the outset that when the video recorded in mobile was seen by the Court, counsel for the petitioner was given an opportunity to see the same but he refused. However, it has been submitted that whatever is shown in the video appears to be consensual on the part of the complainant. In the same breath, it has been argued that recording might have been edited by the complainant and the same is yet to be analysed by an expert as the mobile phone containing the alleged recording is not a part of investigation. In addition, he would urge that the State may be directed to take the mobile in possession for future use.

Counsel for the State, in reply, has submitted that ASI Gurlej Singh from Police Station Arniwala, District Fazilka is present in the Court and if so directed, he can take possession of the mobile phone by preparing a seizure memo etc.

Counsel for the petitioner has not controverted submissions made by counsel for the State that complaint No. 63 dated 13.1.2017 received from the Punjab State Power Corporation Limited against relatives of the complainant was never assigned to the petitioner for verification etc. He has failed to justify visit of the petitioner to house of the complainant on 12.2.2017. The complainant submitted application dated 16.2.2017 to the Senior Superintendent of Police, District Fazilka for taking action against

the petitioner. After due enquiry by the Deputy Superintendent of Police (Headquarters), Fazilka, the instant FIR was registered against the petitioner. It is not clear as to why neither the inquiring authority nor the investigating agency had recovered the mobile phone containing video recording of the incident. Taking into consideration that the petitioner in police uniform went to house of the complainant without having any official business to discharge and was hugging, kissing etc. the complainant, apparent from recording, his culpability cannot be condoned by extending benefit of pre arrest bail, a concession to be allowed by the Court in extraordinary circumstances.

For the foregoing reasons, the petition fails and is accordingly dismissed. However, nothing stated hereinbefore shall be construed as an expression of opinion on merits of the controversy nor would cause prejudice to either of the parties at the time of final adjudication

**(Rekha Mittal)**  
**Judge**

**18.5.2017**  
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Whether speaking/reasoned: Yes/No  
Whether reportable : Yes/No