

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Criminal Misc. No.M- 44793 of 2016(O&M)

Date of Decision: April 24 , 2017.

Bagga Singh @ Jaildar @ Bhupinder Singh PETITIONER (s)

Versus

State of Punjab RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Pratham Sethi, Advocate
for the petitioner.

Mr. Deep Singh, AAG, Punjab.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No.72 dated 22.08.2016 under Sections 376/323/506/120B IPC registered at Police Station Sherpur, District Sangrur.

It is submitted that the petitioner has been falsely implicated in this FIR because of previous acrimony with one Gurmit Singh Fauji and Harvinder Singh. Gurmit Singh Fauji is the step-brother of the complainant. It is submitted that FIR No.26 dated 13.03.2016 under Sections 326/452 IPC was registered against the petitioner at the behest of the abovesaid two persons.

The said FIR was found to be false and was cancelled. The petitioner, it is submitted, is in the trade of selling sand, concrete, cement etc. Gurmit Singh Fauji used to purchase the said material from the petitioner. However, he did not clear his dues towards the petitioner. When the petitioner asked for his money, he was threatened by Gurmit Singh Fauji with false implication in a criminal matter. FIR No.95 dated 15.10.2016 was registered under Sections 341/323/501/149 IPC and Sections 66-E and 67-A of the Information Technology Act, 2000 against the complainant, Gurmit Singh Fauji and eight other persons on a complaint submitted by the petitioner's wife.

Learned counsel for the petitioner further submits that the complainant in the FIR has averred that the petitioner was not known to her however, this averment is falsified by the call details of the complainant's mobile phone wherefrom it is proved that she herself called the petitioner on his mobile phone a number of times. It is contended that the credibility of the complainant is very doubtful as in her testimony before the trial court, the complainant has come up with another version that she expressed her desire to go abroad before the petitioner when she met the petitioner at Hundal Vaishno Dhaba, Malerkotla on 18.08.2016. The petitioner had assured that he would help her go abroad. Thus she has completely changed her stand to bring it in consonance with the investigation conducted on an application submitted by the petitioner's wife. It is submitted that the complainant was married with one Darshan Singh. Her marriage was not dissolved by any decree of divorce and she started living with one Jatinder Singh. The present case, it is submitted, has been foisted upon the petitioner and is a sort of an example of a honey trap.

It is thus prayed that this petition be allowed.

Learned counsel for the State submits that specific allegations have been levelled against the petitioner. The medical evidence on record corroborates the version of the complainant therefore, this petition should be dismissed. It is however not denied that FIR No.95 dated 15.10.2016 has been registered under Sections 341/323/501/149 IPC and Sections 66-E and 67-A of the Information Technology Act, 2000 on a complaint made by the petitioner's wife. It is informed that challan/final report under Section 173 Cr.P.C. in FIR No.95 dated 15.10.2016 has been presented on 16.03.2017. Learned counsel for the State is unable to deny the investigation report in the said case wherein it is found that the complainant was in touch with the petitioner on the mobile phone prior to the alleged occurrence on 21.08.2016. In the investigation report of FIR No.95 dated 15.10.2016, it is observed as under:-

“... .. From investigation it transpired that accused Bhupinder Singh according to their planning made over mobile conversation with complainant Rajpal Kaur, make her sit in his Swift car with her consent as per schedule from Bus Stand Cheema at Badesha, where at Motor Bagga Singh had sex with Rajpal Kaur and upon raising of clamor, they fled from the Motor's Room, clothes of Bhupinder Singh were also picked up by Rajpal Kaur and ran away, this matter should have been left upon the decision of Hon'ble Court.”

Trial in this case is not likely to conclude in the near future. The complainant/victim has testified before the learned trial court. The petitioner is not involved in any other case. There are no allegations on behalf of the State

that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts in the Court, if released on bail.

Keeping in view the facts and circumstances as above but without commenting upon or expressing any opinion on the merits of the case, this petition filed by Bagga Singh @ Jaildar @ Bhupinder Singh is allowed. The petitioner shall be released on bail pending trial subject to his furnishing requisite bail bonds and surety bonds to the satisfaction of the learned Trial Court.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

April 24 , 2017.
'om'

(LISA GILL)
JUDGE

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