

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRM-M No.32607 of 2018 (O & M)

Date of Decision: 12.3.2019

Sameer Suman

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Anmol Verma, Advocate, for the petitioner

Ms. Priyanka Sadar, AAG, Haryana

HARI PAL VERMA, J. (Oral)

CRM No. 30869 of 2018 :

For the reasons mentioned in the application, the same is allowed.

Documents annexed with the application, are taken on record.

Main Case :

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.628 dated 10.6.2016, under Sections 328, 354(D), 376 and 506 IPC, registered at Police Station Chandni Bagh, District Panipat.

The aforesaid FIR was registered at the behest of the complainant with the allegations that the complainant had friendship with the petitioner and near about 15.8.2011, she had gone with the petitioner at his house and stayed for two days. She came back to Panipat and on the next day reached Delhi. The petitioner booked a room in Hotel Shangrila at Delhi and when they reached inside the room, the petitioner administered her some intoxicant material in the cold drink due to which she became unconscious. Taking

advantage of her unconsciousness, the petitioner committed wrong act with her against her wishes and prepared obscene video and took her photographs. Petitioner threatened her that in case this fact is disclosed to anybody, the video and photographs will be uploaded on the internet. The petitioner started black mailing the complainant and did wrong act with her at number of times against her wishes and prepared her obscene videos.

Being aggrieved from the atrocities and to get rid of him in order to save her respect, the complainant registered FIR No. 83/2014 under Section 354 IPC at Panipat. However, after the registration of the aforesaid FIR, the petitioner started threatening her to withdraw the same, otherwise he will kill her. When the complainant did not withdraw the case, the petitioner started sending obscene videos through whats-app to the family members of the complainant.

Learned counsel for the petitioner has argued that the petitioner is in custody since 17.3.2018. He is working with the Indian Air Force. On the relevant date i.e. on 10.8.2011, the date on which it is alleged that after administering some intoxicant material to the complainant, the petitioner committed wrong act with her, is contrary to record. On that date, the petitioner was on temporary duty at Air Force Station Nalia in Gujarat and it was practically not possible for him to be in Panipat. Similarly, on 15.8.2011, the petitioner was posted at Air Force Station, Ambala and the Air Force Authority never permit its employee to come out from the Air Force Station. It is further stated that the petitioner and the complainant were in relationship for about 5 years. He further argued that as many as six opportunities were granted to the prosecutrix but she has not come forward to get herself

examined in the case.

Learned State counsel on instructions from the Investigating Officer, states that no doubt ample opportunities were given to the prosecutrix to depose in the case, but as her address was not known to the Investigating Officer, she could not be contacted. Now, her address has been found and she is likely to appear before the trial Court to depose in the case on 26.3.2019. She further submits that the allegations against the petitioner are serious in nature, as the petitioner has not only committed sexual assault on the complainant, but has also sent the obscene videos through whats-app to the family members of the complainant.

I have heard learned counsel for the parties.

Admittedly, the petitioner is in custody since 17.3.2018 and ample opportunities have been granted to the complainant to get herself examined, but the prosecutrix has not appeared before the trial Court. The petitioner and the complainant were stated to be in relationship for about 5 years. The petitioner has referred to the record of Air Force Authority to substantiate the fact that on 10.8.2011, he was on temporary duty at Nalia Air Force Station. Though this fact is required to be established during the trial, but as the petitioner is in custody since 17.3.2018 and the prosecutrix has not got herself examined, this Court finds that the petitioner deserves to be admitted on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses, in any manner, directedly or

indirectly.

Needless to say that the observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material

(HARI PAL VERMA)
JUDGE

12.3.2019
Ashwani

Speaking/Reasoned	:	Yes / No
Reportable	:	Yes / No