

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-25212-2019 (O&M)
Date of Decision:- 10.9.2019

Sourav Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Salil Dev Singh Bali, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

GURVINDER SINGH GILL, J.

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of FIR No. 38, dated 27.4.2019, registered at Police Station, Sadar Jalalabad, District Fazilka, under Section 376 IPC.
2. The FIR was registered at the instance of Shampy Rani wherein it has been alleged that she was married about 8 years back and is residing in Village Lakhe Ke Musahib where accused Baba Rakesh Kumar is running a religious temple having a following of some villagers. It is alleged that brother of aforesaid Baba Rakesh Kumar namely Sourav Kumar (petitioner) however, used to keep an evil eye on the complainant whenever she used to visit the temple and used to follow

her. It is alleged that said Sourav Kumar started calling on her mobile phone and asked her to meet him as he wanted to tell her something but the complainant did not accede to his request. It is alleged that about 6 months back when the complainant went to her parental village, aforesaid Sourav Kumar (petitioner) called her on her mobile phone and stated that he loved the complainant and wanted to marry her and although the complainant told the petitioner that she was already married, the petitioner did not desist from calling her time and again and also threatened her that he would spoil complainant's reputation. It is alleged that on one occasion when the complainant went to the temple, Baba Rakesh Kumar, Sourav Kumar and Sudesh Kumari were sitting there and Sudesh Kumari represented to the complainant that she would marry off her son Sourav Kumar and would also get the complainant divorced from her husband. It is alleged that Baba Rakesh Kumar offered some "prasad" to her and upon consuming the same she lost her senses and when she regained consciousness she found that she was lying on bed with Sourav Kumar and who disclosed that he had established physical relation with her and also prepared a video clip. It is further alleged that accused Sourav Kumar thereafter used to threaten her to make the video recording public and as such kept on having physical relations with her.

3. Learned counsel for the petitioner has submitted that the he has falsely been implicated in the present case and that the FIR in fact is a counter blast to the FIR which the complainant had lodged on

8.1.2019 against the complainant's husband Rajiv Kumar and others.

Learned counsel in this context has drawn the attention of this Court to FIR No. 2, dated 8.1.2019, registered at Police Station Sadar, Jalalabad, District Fazilka, under Sections 452, 355, 323, 148, 149 of IPC and Section 66 of the I.T. Act (Annexure P-1).

4. It has further been submitted that falsity of the allegations leveled in the FIR (Annexure P-4) would be evident from the fact that the complainant had made an identical complaint to Senior Superintendent of Police, Fazilka on 9.1.2019 (Annexure P-2) where the complainant did level allegations that Sourav Kumar kept an evil eye on her and that on one occasion he made her eat something due to which she lost her senses and thereafter he claimed that he had prepared her video but in the said complaint no such allegation had been levelled that the petitioner had established any physical relations with the complainant.
5. Opposing the petition, learned State counsel, has submitted that since the petitioner is specifically named in the FIR wherein allegation of rape has also been levelled, no case for grant of bail is made out. It has however, been informed that the petitioner has since joined investigation.
6. I have considered rival submissions addressed before this court. Although, allegations of rape have been levelled in the FIR in question but it remains unexplained as to why the said allegations of rape were not levelled in the complaint (Annexure P-2) made by the complainant on 9.1.2019 to Senior Superintendent of Police, Fazilka.

Further the fact that earlier it was the petitioner who had lodged one FIR against complainant's husband and others would also put the Courts at caution as the chances of false implication cannot be ruled out. In any case, the petitioner is already stated to have joined investigation and nothing is required to be recovered from him. In these circumstances this Court does not find the present case to be such where custodial interrogation is warranted. The petition, as such, is accepted and interim directions issued vide order dated 30.5.2019 are made absolute subject to the condition that the petitioner shall appear and join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

7. The present petition stands accepted accordingly.
8. It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

September 10, 2019

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No