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

CRM-M-33938-2019 (O&M)

Date of decision: 11.09.2019.

SANJEET AND OTHERS

... Petitioners

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Keshav Partap Singh, Advocate,
for the petitioners.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Sunil Kumar Jha, Advocate,
for the complainant.

HARI PAL VERMA, J.

CRM-27693-2019

Prayer in the application filed under Section 482 Cr.P.C. by the complainant is to place on record reply along with documents i.e. Annexures R-1 to R-6 and for exemption from filing certified copies thereof.

For the reasons stated in the application, same is allowed and the reply filed by the complainant along with documents i.e. Annexures R-1 to R-6 is taken on record.

CRM-26682-2019

Prayer in the application filed under Section 482 Cr.P.C. by the petitioners is to place on record documents as Annexures P-4 (colly) to Annexures P-6.

For the reasons stated in the application, same is allowed and the documents as Annexures P-4 (colly) to Annexures P-6 are taken on record.

CRM-M-33938-2019

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioners in FIR No.80 dated 23.05.2019 registered under Section 376(D) of IPC and Sections 4/6 of POCSO Act, 2012 at Police Station Sadar Sohna, District Gurugram.

The aforesaid FIR was registered at the behest of the prosecutrix-a girl aged about 21 years. As per the FIR, in the year 2016 when she was studying with her friend-Annu, who had her mobile number and on the basis of this number, Sanjeet Bhamla, who is brother of Annu, made a call to the prosecutrix that he wanted to make friendship with her. In March, 2016, he came to the village of the prosecutrix and proposed her for marriage. However, the prosecutrix refused him. Thereafter, by enticing the prosecutrix, he (Sanjeet Bhamla) asked her to come at the farm house of Lala Ram Chavri (Gujjar) situated near the house of the prosecutrix, which was lying vacant for the last 10-15 years. He made many offers to her. At about 8.00 PM, he forcibly took her in the farm house and committed rape upon her. He threatened that in case, she will disclose about the incident to his sister or her parents or to any other person, he will kill her. The prosecutrix frightened and did not disclose this fact to anybody.

After three months i.e. in July, 2016, Sanjeet Bhamla again came to her village and threatened that in case she will not come to meet

him, he will viral all those photos to her parents which were taken by him last time. Under this fear, at about 3/4:00 P.M.(during the day time), she went to meet him in the farm house where he committed wrong act with her and threatened that he has made this video again and in case she will disclose about the incident to anybody, she will face serious consequences. In July, 2016, Sanjeet Bhamla also threatened to the complainant to develop relations with another boy whose name was also Sanjeet and resident of the same village Johlaka. Under the threat of photos and video, he (second Sanjeet) also made physical relations with the prosecutrix and this continued till December, 2016.

In the month of December, 2016, when the prosecutrix had to appear in the 11th class examination, she stopped picking phone calls of the accused, but still while sending messages and giving threats, they continued to commit wrong act with her. In December, 2016 the marriage of her brother Mohit was solemnized. Her mother had a mobile phone and the accused used to sent threatening messages to the prosecutrix on that phone. After the marriage, the prosecutrix started staying with her brother and sister-in-law (*bhabhi*) and in this manner, there was no contact with either of the accused (Sanjeet Bhamla and Sanjeet).

In April, 2017, accused Sanjeet Bhamla somehow ascertained her brother's house at Maruti Kunj, Badshahpur and came there at day time. When the prosecutrix opened the door, she became frightened to see the accused there. The accused threatened her that he is giving her a phone and as and when she is called by him (accused), she has to come, otherwise all videos and photos would be given to her brother and sister-in-law (*bhabhi*)

and will make them viral. Under this fear, the prosecutrix kept the mobile with her.

In the month of October, 2017, the accused called her and took her in a car and committed rape with her in a factory situated in Badshahpur (Gurgaon). Fed up with these activities of the accused, she returned back to her village Chuaharpur.

In December, 2017, she received a phone call on a number given by the accused-Sanjeet Bhamla, from second Sanjeet, who told her that Sanjeet Bhamla is in jail and he has given all videos and photos to him and now, she has to do the way he dictates and while calling her in old farmhouse, he also committed rape upon her and prepared a video. However, when the prosecutrix asked the father's name of the accused-Sanjeet, he told his father's name as Raja Ram of Village Johlaka, Tehsil Sohna. He continued to commit wrong act with her till December, 2017. During this period, he brought another boy Sandeep Bainsla of Village Bilhaka, son of Bhagwan Dass and they committed wrong act with her turn by turn.

In January, 2018, 4th accused, namely, Chhali, called her that he is the boss of all three and disclosed his name as Rahul Tanwar alias Surender. He told the prosecutrix that all three, namely, Sanjeet Bhamla, Sandeep Bainsla and Sanjeet, are afraid of him and whatever they have done with her, they will not repeat and henceforth, he will protect her.

In February, 2018, Chhali also committed the similar act which was committed by the other three accused under the similar threat that all photos and videos are with him. He told the prosecutrix that she has to do what he says to her, otherwise he will viral everything on social site and will

also tell everyone in the village. From February 2018 to May 2018, he committed rape with her continuously. Her mother Savita Devi became somewhat suspicious and fixed her marriage for 20.02.2019. When the prosecutrix told about her marriage to Chhali, he became very angry and told her that she has to marry according to his choice. Thereafter, she was sent by her parents to her uncle-Ved Parkash Sharma's house at Yamuna Vihar, Delhi.

In June, 2018, she started living at the house of her uncle (tau). In July, she came to know that she is pregnant and when this fact was disclosed to Chhali, he threatened her that his name should not be made public, otherwise all videos would be viral. In July, 2018, he again called her to meet him at Yamuna Vihar Colony and gave her a tablet for abortion of pregnancy. Since she was having pregnancy of five months, she did not disclose this to anybody and consumed the tablet as asked by Chhali.

For having guilt in her mind, on 10.12.2018 without informing anybody, she left her uncle's house and went to Amritsar and started staying in a Gurudwara, Santokhsar, where the sewadars helped her, counselled her and persuaded her to marry and to start a new life. Ultimately, she got married, but since she could not forget the traumatic experience or the persons who made her life hell, she decided to report the matter to the police.

The petitioners approached the court of Additional Sessions Judge, Gurugram, for the grant of anticipatory bail through an application filed under Section 438 Cr.P.C., but considering the allegations of sexual exploitation including threats and blackmailing, the learned Additional

Sessions Judge dismissed their application vide order dated 24.07.2019.

Now through the present petition filed under Section 482 Cr.P.C., the petitioners have approached this Court for grant of anticipatory bail.

Counsel for the petitioners has argued that no offence under Section 376 (D) of IPC and Sections 4/6 of POCSO Act is made out against the petitioners. There is unexplained delay of 3 years in lodging the FIR which creates a very serious doubt about the story propounded by the prosecutrix. The very object of the prosecutrix was to cover-up her character, as she had fled away with one person, namely, Deepak in the month of December, 2018 and they also filed a protection petition before the Delhi High Court. From the order of Delhi High Court, it is clear that the father of the complainant has accepted the marriage of the complainant. The complainant has falsely implicated the petitioners under the pressure of family members as the father of the complainant has fixed her marriage with one Nitin, which was otherwise to be performed in February, 2019, but she ran away from the house of her uncle with one Deepak and filed a protection petition. No recovery is to be effected in the case from the petitioners and their custodial interrogation is not required.

While making reference to the orders (Annexure P-4) and the chats on the facebook (Annexure P-6), counsel for the petitioners has further argued that petitioner No.1 and the prosecutrix were known to each other. The prosecutrix did not make any complaint between 2016 to 2019 and she made the complaint at the behest of her father. The prosecutrix made her statement under Section 164 Cr.P.C. on 05.05.2019 wherein she has not

made any allegation and it is thereafter on 24.05.2019, she made another statement under Section 164 Cr.P.C. making such allegations involving the petitioners in the case.

Counsel for the complainant states that the allegations against the petitioners are serious. The prosecutrix was exploited by the petitioners on the basis of photos/videos prepared by them and they had repeatedly committed sexual assault on her. In her statement under Section 164 Cr.P.C. on 24.05.2019 made before the learned Judicial Magistrate Ist Class, Sohna, she has made her statement in terms of the FIR.

I have heard counsel for the parties.

The argument of counsel for the petitioners that the prosecutrix has completely changed her version from the initial version recorded under Section 164 Cr.P.C. on 05.05.2019, this Court finds that at this stage, the prosecution version including Section 164 Cr.P.C. dated 24.05.2019 has to be considered for the purpose of present petition filed by the petitioners for the grant of anticipatory bail. Moreover, all the petitioners are married. The other allegation in the FIR is that even one of the co-accused has operated from jail, which speaks the involvement of the petitioner in another case under Section 376 IPC, though he is stated to have been acquitted in that case.

Without making much observations about the previous case, if any, and taking into consideration the allegations so made in the present FIR supported by the statement dated 24.05.2019 recorded under Section 164 Cr.P.C., this Court finds that the allegations so made in the FIR do not warrant the relief of anticipatory bail to the petitioners. The allegations are

of sexual exploitation of a girl by four persons number of times repeatedly.

In view of the allegations in the case, this Court does not find any reason to admit the petitioners on anticipatory bail.

Dismissed.

(HARI PAL VERMA)
JUDGE

11.09.2019

sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No