

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37604-2019

Date of decision: 13.09.2019

Harvinder Sharma @ Rana

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ritesh Aggarwal, Advocate and
Mr. H.S. Sakrali, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. P.S. Ahluwalia, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail in FIR No.217 dated 26.08.2019 under Sections 384, 501, 419, 420, 465, 468, 471, 120-B IPC, registered at Police Station Civil Lines, Patiala, District Patiala.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of Vipin Sharma, he is working as Secretary in Rajindra Jim Khana and Maharani Club, Patiala and is office-bearer of Veer Hakikat Rai School, earlier an FIR is registered against the petitioner for committing embezzlement in the school. It is further stated in the FIR that an application was moved in the name of a fictitious girl namely Pinky before the

various authorities with immoral allegations, in order to implicate the complainant in a rape case/POSCO Act. Not only this, some registered letters in the name of said fictitious girl were also sent, on the letterhead of one Ram Kumar, Advocate, who had died two months before sending the said letters. Thereafter, CIA, Patiala conducted an inquiry and found that petitioner Harvinder Sharma @ Rana and one Brahm Parkash had gone to the office of Ajay Sharma with newspaper cuttings and photocopies of the applications and informed that complainant Vipin Sharma has registered an FIR of cheating and embezzlement against Harvinder Sharma @ Rana, therefore, the petitioner, with the help of his companions, has prepared complaints in the name of fictitious girl namely Pinky, in which the allegations of rape have been levelled against the complainant. It is further stated that these complaints were also uploaded on the social media and Vipin Sharma was pressurized to withdraw the FIR. It has also come in the investigation that one Gurnam Singh was also directed by Ajay Sharma to post the letters on the letterhead of an NGO.

Learned counsel for the petitioner has argued that in fact, on account of the dispute regarding management of Veer Haqiqat Rai Sanatan Dharam Sabha, wherein the petitioner was elected as President of the same, a civil suit is pending against other office-bearers for rendition of accounts and on that pretext, this FIR has been registered by complainant Vipin Sharma and he had earlier lodged an FIR against the petitioner, who is a practising Advocate at Patiala. It is also argued that the petitioner was granted anticipatory bail in the earlier FIR and therefore, he may be granted the concession of anticipatory bail in the present FIR as well.

Learned State counsel, assisted by ASI Devi Ram and learned

counsel for the complainant, has opposed the prayer for bail. It is argued that initially, the complaint was given against the petitioner to the police on 24.05.2016, whereas the civil suit was filed much later, on 08.12.2017, just to create the defence. It is further argued that the petitioner, by creating a fictitious girl namely Pinky, has posted the letters to the authorities levelling allegations of rape against complainant Vipin Sharma. The sender of these letters is one Ram Kumar, Advocate, who died two months prior to issuance of these letters and this fact was in knowledge of the petitioner, himself being an Advocate and he intentionally and deliberately tried to frame the complainant in a false case of rape and POSCO Act, to put pressure upon him to withdraw the earlier FIR No.40 of 2018 registered against the petitioner for committing embezzlement of the funds of the institution.

Learned State counsel has next argued that due inquiry was conducted by the CIA Staff, Patiala and it came during the investigation that a Sikh person named in the complaint was in fact co-accused Gurnam Singh and the petitioner was mastermind of creating the entire story of sending the fictitious letters pointing a finger towards character of the complainant. It is further submitted that after the investigation was completed, Superintendent of Police sought the opinion of the District Attorney, who has opined that as per the inquiry, petitioner Harvinder Sharma @ Rana, Brahm Parkash, Gurnam Singh and Ajay Sharma, in conspiracy with each other and to put pressure on the complainant to withdraw the earlier FIR, have prepared/got prepared the documents, in a calculated move and with an intention to defame the complainant, circulated the same on social media i.e. facebook, whatsapp and it was also published in the newspapers, therefore, prima facie offence under

Sections 384, 501, 419, 420, 465, 468, 471, 120-B IPC is made out. Learned State counsel has thus argued that after conducting a due and proper inquiry, present FIR has been registered, as sufficient evidence has come on record against the petitioner and in order to unearth the entire crime, custodial interrogation of the petitioner is required.

Learned counsel for the complainant has argued that the petitioner is main accused in the case, as it is a clear case of tempering the evidence and misuse of concession of anticipatory bail granted to the petitioner in the earlier FIR No.40, as he, by creating fake documents and using social media platforms, in order to defame the complainant and to put him under the threat to withdraw FIR No.40, has committed the offence.

In reply, learned counsel for the petitioner has submitted that since the petitioner was elected as President of the aforesaid Sabha, he has filed a civil suit for rendition of accounts against the other office-bearers and in that process, two FIRs have been registered against him.

After hearing learned counsel for the parties, I find no merit in the present petition, for the following reasons: -

(a) As per the inquiry conducted by CIA, Patiala, the petitioner being an Advocate, knowingly that one Ram Kumar, Advocate had died two months prior to the date of circulation of the complaint, in which a fictitious girl namely Pinky was named as a victim of rape at the hands of complainant Vipin Sharma, has sent the letters. In the investigation conducted so far, it has come on record that the girl Pinky is not in the existence and the petitioner, in conspiracy with other accused, to put pressure on the complaint to withdraw the earlier FIR, has tried to temper the evidence in the said FIR, by creating forged

documents in the name of a fictitious girl and then circulated the same in the social media i.e. facebook, whatsapp and newspapers, therefore, the petitioner is mastermind of the entire episode.

(b) The arguments raised by learned counsel for the petitioner that the FIR has been registered as a counter-blast to the civil suit filed on 08.12.2017, is not correct, as the complaint was initially given to the police on 24.05.2016, which after due verification and inquiry, was approved by the Superintendent of Police, after obtaining opinion of the District Attorney.

(c) The manner, in which the offence has been committed by the petitioner, in order to send a message to the society that complainant Vipin Sharma is an accused of rape of a fictitious girl Pinky and then circulated the letters in the name of a dead person Ram Kumar, who was colleague of the petitioner, shows that the petitioner, in a calculated move, has tried to create the evidence against the complainant.

(d) A perusal of the FIR shows that the complete details of the investigation has been given and thereafter, by forming an opinion, the District Attorney has also recommended for registration of the FIR.

In view of the above, I find no ground to grant anticipatory bail to the petitioner.

Accordingly, the present petition is dismissed.

[ARVIND SINGH SANGWAN]
JUDGE

13.09.2019
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No