

224.

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

CRM-M-45768-2019

Date of decision: 31.10.2019

SUNIL

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Sushil Kumar Verma, Advocate,
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner, pending trial, in case FIR No.94 dated 16.08.2019 registered under Section 67 of IT Act, 2008 and Sections 354-A, 376, 506 of IPC at Women Police Station, Sirsa, District Sirsa.

The aforesaid FIR was registered at the behest of Poonam whose marriage was solemnized with Sanjay on 27.03.2019. The victim used to work in the office of the petitioner and used to handle the entire office work as the petitioner used to visit the office after 2/3 months. Whenever he used to come, he molest her by touching her different parts of the body with bad intention, which was objected by the victim. The petitioner also clicked her photo on his mobile while he was molesting her.

One day, the petitioner forcibly made physical relations with her in the

office and also recorded obscene video in his phone. He threatened her not to disclose the occurrence to anyone and for this reason, the victim stopped working in his office. Thereafter, she got married. The petitioner forwarded the video and photographs on whatsapp to her husband. When the complaint was lodged against the petitioner by her parents, he apologized for his acts before her family and promised not to do the same in future. But after 10 days, the petitioner again forwarded the same video and photo on the whatsapp of her husband and her parents again lodged a complaint in Women Police Station against the petitioner. He again apologized and for this reason, no legal action was initiated against the petitioner. On 14.08.2019, the petitioner sent friend request in the friend circle of her husband and there is apprehension that the petitioner can send her video to her relatives and friends and he can also viral her video on facebook.

Counsel for the petitioner has referred to the statement of the mother of the victim, namely, Maya Devi dated 29.04.2019 wherein she has stated that there was money dispute between the parties and the complaint was made by her at the instigation of somebody. He states that on account of some apprehension, the present FIR has been registered, and there is no such recorded version with the petitioner. Moreover, mobile of the petitioner has already been taken into custody by the police and nothing has been recovered from that mobile. The petitioner is in custody since 18.08.2019 and he is about 33 years of age.

Learned State counsel does not dispute the custody and submits that the mobile used in the crime has been recovered and the same has been sent for FSL, however, the FSL report is awaited. She further submits that in the mobile, there was no video, as probably the petitioner might have deleted the same.

I have heard counsel for the parties.

Petitioner is in custody since 18.08.2019. Annexure P-3 the statement recorded by the mother of the petitioner on 29.04.2019 before the Women Police Station, Sirsa does reflect that there were similar allegations against the petitioner for molesting her daughters, however, that was compromised, as the mother of the prosecutrix had made a statement that there was money dispute between them and the complaint was made by her on the instigation of someone. In the background of the case, when earlier also, there were similar allegation and coupled with the fact that FSL report in the case is yet to be received in the case, the culpability of the petitioner is yet to be established during the trial. Accordingly, this Court deems it appropriate to admit the petitioner on bail.

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

It is made clear that in case on receipt of FSL report, it is established that there is recorded version in the mobile of the petitioner, he would surrender before the trial Court forthwith. However, he would be at liberty to move appropriate application for grant of bail in accordance with law.

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

31.10.2019
sanjeev

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