

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

CRM-M-50985-2019 (O&M)
Date of Decision:-13.12.2019

Raj Pathak @ Sonam

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. N.S. Shekhawat, Advocate for the petitioner.

Mr. Ashok Singh Choudhary, Addl. Advocate General, Haryana,
assisted by SI Papita.

GURVINDER SINGH GILL, J.(Oral)

CRM-39377-2019

In view of the reasons mentioned in the application, the same is allowed and the documents annexed with the application as Annexure P-6 and P-7 are taken on record.

CRM-39379-2019

Application is allowed as prayed for subject to all just exceptions.

CRM-M-50985-2019

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.0021 dated 2.4.2019 at Police

Station Women Police Station, District Rewari under Sections 376-D and 506 of Indian Penal Code.

2. The FIR was registered at the instance of the prosecutrix, wherein it has been alleged that she was earlier working in 'VERTO' company but had later left the job and was in search of some better opportunities, when she came in contact with accused namely Raj Pathak @ Sonam (petitioner) and Saurabh Pathak @ Krishna Pathak, who were priests in a temple. It is alleged that Saurabh Pathak @ Krishna Pathak held out a representation that he could get her employed in some company and for the said purpose called her to Rewari. The complainant has alleged that pursuant to the said representation she was taken to Rewari where she was raped by both the accused.
3. The learned counsel for the petitioner has submitted that the prosecutrix is a matured lady aged 26 years and infact from her past record it appears that she had instituted several cases against various persons levelling different kinds of allegations. The learned counsel in this regard has drawn the attention of this Court to a status report filed in a case pertaining to FIR No.316 dated 31.10.2017 registered at Police Station Bahin, District Palwal, under Sections 306, 506 and 34 of Indian Penal Code (Annexure P-6), wherein one Mahinder committed suicide having been harassed by the present prosecutrix. The learned counsel has also further referred to a document titled 'Halaat Mukadma' (Annexure P-7) in respect of FIR No.48 dated 20.4.2019 registered at Police Station Women West, Gurugram under Sections 376(2)(n), 313 and 506 of Indian Penal Code, wherein the present prosecutrix had levelled allegations of rape against one Dinesh. It has been submitted that since the aforesaid Dinesh was also harassed in a like manner, he was compelled to solemnize marriage with the prosecutrix. It has further

been submitted that later when there were some differences between Dinesh and the present prosecutrix the said prosecutrix chose to institute another FIR against the aforesaid Dinesh i.e. FIR No.0606 dated 2.9.2019 registered at Police Station Model Town Rewari under Section 195, 34 and 506 of Indian Penal Code.

4. The learned counsel has also referred to transcript of audio conversation annexed with the petition as Annexure P-5, wherein Dinesh is stated to have been demanding an amount of ₹2 lakhs from the petitioner's brother so as to settle the present case. It has thus been submitted that the prosecutrix is a professional black-mailer, who has been going about instituting cases so as to compel innocent persons to part with huge amounts.
5. Opposing the petition, the learned State counsel has submitted that no authenticity can be attached to the transcripts annexed as Annexure P-5 as the same are not part of the challan and were never inquired into. The learned State counsel has further submitted that the Investigating Officer is not aware about the other FIRs lodged against or at the instance of the prosecutrix. The learned counsel has submitted that the prosecutrix in her statement recorded under Section 164 Cr.P.C. has fully supported the case of the prosecution and has reiterated the allegations. It has, however, been informed that the petitioner has been behind bars since the last more than seven months and that as on date only 4 PWs out of cited 20 PWs have been examined including the prosecutrix.
6. I have considered rival submissions addressed before this Court.
7. At this stage, this Court would not like to make any expression as regards veracity of the allegations levelled by the prosecutrix or as regards the

contention that the prosecutrix is habitual in instituting false cases but keeping in view the fact that the petitioner has been behind bars since the last more than seven months and that conclusion of trial is likely to take some time as till date only 4 PWs out of cited 20 PWs have been examined, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and it is ordered that the petitioner be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

8. Keeping in view the contentions raised on behalf of the petitioner as regards the assertion that the prosecutrix has instituted other cases and that her antecedents reflect that she has been blackmailing innocent persons, it shall be open to the accused/prosecution to move an application before the Trial Court under Section 173 (8) Cr.P.C. seeking appropriate order to get the matter further investigated which shall be decided by the Trial Court in accordance with law particularly keeping in view the latest pronouncement of Hon'ble the Supreme Court in Vinubhai Haribhai Malaviya and Ors. Versus The State of Gujarat and Anr., AIR (2019) SC 5233.

13.12.2019

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No