

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

**CRM-M-6679 of 2020 (O&M)
DATE OF DECISION : 22.07.2020**

Mahinder Kumar Gurjar **...Petitioner**
Versus

State of Punjab **...Respondent**

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

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

Mr. Suveer Sheokand, Additional A.G., Punjab.

Mr. Preetwinder Singh, Advocate
For the complainant.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. The petitioner is seeking regular bail in FIR No. 474 dated 16.11.2019, registered under Sections 376, 376(2)(n), 383 and 506 IPC, Police Station City, Barnala.
2. The FIR in this case was registered on the basis of complaint of the prosecutrix. She alleges that the accused/petitioner developed illicit relationship with her by threatening to kill her husband and exhibit/ viral her photographs. Prior thereto, the petitioner on getting posted at India Air Force, Barnala started to live in the same vicinity where she along with her husband and family was residing. He developed intimacy with them/petitioner's family, being from the same area of Rajasthan.
3. Learned counsel for the petitioner argues that the allegations in the FIR do not inspire confidence. According to him, the FIR has been lodged

with inordinate and unexplained delay as the incident last happened in the month of August, 2019, while the FIR was lodged in November, 2019. Learned counsel while taking this Court to the FIR, strenuously argued that it was, at worst, a consensual relationship and the complainant has leveled the allegations of rape just to settle personal scores. He further points out that at the time of medical examination, the complainant informed the doctor about a forcible kiss and the allegations of rape are conspicuously missing. Learned counsel for the petitioner also refers to the statement of prosecutrix recorded under Section 164 Cr.P.C. and submits that the same is in total contradiction with the narration in the FIR. According to him, investigation is over, challan has been filed but trial is yet to commence as the Courts are taking only urgent matters due to Covid-19 pandemic and is not likely to conclude soon.

5. On the other hand, learned State counsel assisted by learned counsel for the complainant opposes the bail plea. According to them, the accused is from a Disciplined Force and he misused his position and committed rape with the complainant under coercion and by putting fear of murdering her husband and exhibiting her objectionable pictures. According to learned counsel for the complainant, in case the petitioner is enlarged on bail, he will pressurize the complainant.

6. The petitioner is in custody since 19.12.2019. Perusal of record reveals that at the time of medical examination, prosecutrix herself had stated to the doctor that there was no forcible sex and she was merely kissed by the accused. That apart, the allegations in the FIR are at variance with her statement recorded under Section 164 Cr.P.C. and in any case, it is for the trial Court to determine credibility thereof and adjudicate on the submissions, *ibid* made by learned counsel for the petitioner. Chargesheet has though been filed but charges have not been framed. The trial is not likely to commence or

conclude in near future due to present scenario of Covid-19 where the Courts are working with restrictions and taking up urgent matters only. Without expressing any opinion on the merits of the case, petition is allowed. Petitioner shall be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/ Duty Magistrate, Barnala, as the case may be. The petitioner will not visit the place where the complainant is residing and is also directed not to contact/ influence the prosecutrix or any other witness related to this case.

JULY 22, 2020
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(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No