

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

(Through Video Conferencing)

CRM-M-11024-2020 (O&M)

Date of Decision: 28.10.2020

Kamal Gill

.....Petitioner

Versus

State of Punjab

.....Respondent

CRM-M-20561-2020

Kamal Gill

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Jagdish Manchanda, Advocate, for the petitioner(s).

Mr. A.A. Pathak, Additional Advocate General, Punjab.

Mr. Gurpreet Jayia, Advocate, for the complainant.

NIRMALJIT KAUR, J.

Both the petitions shall dispose of by this common order as both arise out of same FIR.

CRM-M-11024-2020

The present petition is filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.28 dated 30.4.2019 under Sections 429, 420, 384, 323, 341, 342, 367, 370(2), 376, 506, 201 IPC and Sections 3, 4, 5, 5-A of Immoral Traffic Prevention Act, 1956, registered at Police Station Women Cell, District Jalandhar, Punjab.

While praying for bail, learned counsel for the petitioner contended that the petitioner has been enroled only because he is the son of

the main accused Dharminder Gill. It is further contended that a perusal of the FIR shows that there is no allegation levelled against the petitioner and the allegation, if at all, are against Kamlesh Rani and his father Dharminder Gill. Number of people have filed complaints against the complainant herself.

Heard.

As per the allegations in the FIR, the victim was running a Parlour alongwith Dharminder Gill and Kamlesh Rani. They recorded a video of the victim with a boy in compromising position under intoxication and started blackmailing her thereafter. They were using her for extracting money from various persons. They forced her into flesh trade. The petitioner whose second name is Mani has been duly named in the FIR alongwith Sunny and one more girl named Nancy for having connived with Kamlesh Rani and Dharminder Gill to make the video and then blackmailing her and extract money from other persons by using her in flesh trade.

On the last date of hearing, learned counsel for the petitioner placed on record the affidavit of the petitioner. The affidavit dated 19.9.2020 of the complainant in which, the complainant is stated to have submitted that Dharminder Gill and other accused have not given any threats and nor any offence was committed by them as pointed out in the FIR. Since the affidavit on the face of it looked suspicious, this Court directed the State to verify the authenticity of the same vide order dated 29.9.2020.

Today, an affidavit of Dharam Paul (PPS) Assistant Commissioner of Police PBI-CAW & Children Jalandhar dated 22.10.2020 has been filed stating therein that the factum of affidavit was verified from

the complainant, who has produced another sworn affidavit dated 13.10.2020 stating therein that she is being regularly threatened by the relatives to withdraw the complaint against the petitioner and the others and she was forcibly taken to the Tehsil Complex to get the affidavit dated 19.9.2020 attested from Suvidha Centre and has been further threatened that in case she tells anything about this, she and her daughter would be killed and they had also took away her daughter forcibly and kept her till the complainant signed the said affidavit at the Tehsil complex. Para Nos.3, 4 and 5 of the affidavit of Dharam Paul (PPS) Assistant Commissioner of Police PBI-CAW & Children Jalandhar dated 22.10.2020 are reproduced as under:-

“3. That complainant has further mentioned in her affidavit that on 19.9.2020 brother of Dharminder Gill namely Gora, Manoj Sondhi, Nisha Rani and Lakshmi @ Jassi and Rakesh Kumar met her in Basti Bawa Khel where complainant has gone to market with her daughter and they forcefully took her in their car and brought her to the house of Dharminder Gill and when she was trapped in the house of Dharminder Gill then brother of Dharaminder Gill namely Gora brought typed Stamp Paper and asked me to sign the same and when she opposed their act and conduct then they confined the daughter of complainant in room and thereafter in apprehension of fear she signed the same and took her forcefully to Tehsil Complex and got attested the said affidavit from Suvidha Centre.

4. That complainant has further stated in the affidavit that her photo was also clicked on the affidavit and threatened her that in case she tell anything about this then her daughter shall be killed and in case need arise then complainant will have to go to Chandigarh to record her statement and thereafter complainant along with her daughter were thrown from their home on 21.9.2020.

5. That the complainant has further stated in her affidavit that said affidavit dated 19.9.2020 has been obtained from her under threat and said affidavit has been placed on record before Hon'ble Punjab and Haryana High Court in the bail application and said affidavit has been obtained by brother of Dharminder Gill under force and threat and earlier she had given statement before Police and she verified the same and affidavit which was obtained from her on 19.9.2020 said affidavit has been taken forcefully without her consent. She had further stated in her affidavit that she stands on her previous statement recorded at the time of registration of FIR and said statement is true and correct. Copy of affidavit dated 13.10.2020 is annexed herewith as Annexure R-1/T.”

Thus, as per the report, the said affidavit has been obtained through force and coercion. In view of the above as well as the allegation, the petitioner does not deserve the concession of anticipatory bail.

Dismissed accordingly. Consequently, the accompanying applications are also stand disposed of.

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For the reasons recorded above, no ground for interference is made out in the present petition.

Dismissed accordingly.

(NIRMALJIT KAUR)
JUDGE

28.10.2020
sharmila

Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No