

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-13521-2020 (O&M)

DATE OF DECISION: JULY 16, 2020

KULWINDER SINGH @ KINDA

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. H.P.S. SIDHU, ADVOCATE FOR THE PETITIONER.
MR. V.G. JAUHAR, SR.DAG, PUNJAB.

MANOJ BAJAJ, J.(ORAL)

CRM-15618-2020

The petitioner has filed this application for placing on record copy of statement of material witnesses (Annexure P-5) and for adding Section 67 of IT Act in the headnote of the petition, as the same was missed mistakenly.

Notice in the application.

Mr. V.G. Jauhar, Sr.DAG, Punjab accepts notice and does not oppose the prayer made.

For the reasons mentioned in the application, the same is allowed and the statement (Annexure P-5) is taken on record and Section 67 of IT Act is allowed to be added in the headnote as well as prayer clause of the petition. Registry is directed to carry out necessary change.

CRM-M-13521-2020

Petitioner Kulwinder Singh @ Kinda has filed this petition

under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.145 dated 23.9.2019 under Sections 328, 341, 506, 354, 34 IPC (Section 376 IPC added later on) and Section 67 of the IT Act, Police Station Kot Ise Khan, District Moga. The petitioner is in custody since his arrest on 2.10.2019.

The FIR was registered on the statement of prosecutrix wherein it was alleged that she being neighbour of Kulwinder Singh was known to him. About 2 years ago, he took her the complainant in a hotel at Moga and served some intoxicating substance through a cold drink and upon consuming the same, the complainant turned unconscious. The accused made objectionable video and started blackmailing her. According to her, on 17.9.2019, Kulwinder Singh alongwith some unknown persons had forcibly put poisonous substance in her mouth and made an attempt to forcibly take her away on the motorcycle. When her uncle Jasvir Singh reached there, the accused ran away from the spot on the motorcycle. On these broad allegations, the present FIR was registered.

Learned counsel for the petitioner contends that the allegations are improbable. It is pointed out that the prosecutrix had left India and her uncle was examined as PW1 before the trial Court and he has not supported the prosecution case. He has further invited the attention of the Court to the affidavit of the prosecutrix sworn on 13.2.2020 (Annexure P-2) wherein it has been mentioned that she may not be able to pursue the present case as she is going abroad. According to him, the trial will take considerable time, therefore, further custody of the petitioner may not be necessary. He prays

that the petitioner be granted the concession of regular bail.

The prayer is opposed by learned State counsel assisted by ASI Sukhwinder Singh who has apprised the Court that the charges were framed on 18.2.2020, however, only one witness has been examined so far. It is not disputed that the said witness has not supported the case of the prosecution. Learned State counsel on instructions from ASI Sukhwinder Singh fairly states that the prosecutrix is out of India.

After hearing the learned counsel for the parties, this Court is of the opinion that the trial of the case is likely to consume considerable time, therefore, further custody of the petitioner may not be justified, particularly when the investigation of the case is complete. The petitioner is presently confined in custody and is not required for any useful purpose. Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

July 16, 2020
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No