

Sr. No.203

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

CRM-M-16030 of 2020 (O&M)

Date of Decision: 09.07.2020

Sahabuddin Siddiqui

...Petitioner

Versus

State of Haryana

... Respondent

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Lewish Edward, Advocate,
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. The petitioner is seeking regular bail in FIR No. 4 dated 23.01.2020, registered under Sections 376(2)(A), 506 IPC and Section 67(A) of the Information Technology Act, 2008, registered at Police Station Women, Hisar.

2. As per allegations in the FIR, the prosecutrix came in contact with the petitioner through a social website. On 19.08.2018 the petitioner visited the rented accommodation of the prosecutrix in Hisar and raped her and took her obscene photographs. He also criminally intimidated her not to disclose the incident to anybody. It is further stated in the FIR that the petitioner started blackmailing the prosecutrix and she was often called to Delhi under the pressure to exhibit her objectionable photographs in public and was raped there as well. Statement of prosecutrix under Section 164 Cr.P.C. was recorded and the petitioner was arrested on 07.02.2020.

3. Learned counsel for the petitioner argues that it is a case of consensual relationship gone sour. He submits that, in fact, petitioner and prosecutrix met in a marriage of their common friend in 2016 at Kaithal. They developed mutual fondness and started visiting each other frequently. In April, 2018 both of them even moved in and started living together. According to learned counsel, both of them visited Manali and Uttrakhand out of their free volition. He refers to photographs at Annexure P-6 to contend that the petitioner and prosecutrix were having an affair and she had visited tourist places with the petitioner of her sweet will and there was no threat. He further submits that even after registration of the FIR, the prosecutrix is exchanging messages with the brother of the petitioner and contacting him and refers to whatsapp conversation (Annexure P-8) and call details (Annexure P-9) to contend that FIR has been lodged by the prosecutrix due to her family pressure. He further submits that in her statement under Section 164 Cr.P.C. as well as in her supplementary statements given to the police, the prosecutrix had given contradictory version of the incident. Learned counsel further submits that petitioner is in custody for about five months, investigation is over and challan has already been given and trial would take long time to conclude on account of Covid-19 Pandemic.

4. On the other hand learned State counsel opposes the bail plea. According to him, the petitioner committed rape with the prosecutrix and blackmailed her to viral her obscene pictures. On a query of the Court, learned State counsel admits that challan was filed on 19.03.2020 for trial of the petitioner.

5. The petitioner is in custody for the last about five months. The investigation is over and challan has been filed in the Court, but trial is yet to

commence, as immediately after filing of the challan, there was lockdown due to Covid-19 and the Courts are working with restrictions and taking up only urgent matters. Custodial interrogation of the petitioner is no more required. The pleas of consensual relationship and/or prosecutrix being a consenting party or not and the registration of the case on account of family pressure etc., can only be adjudged during the trial, which would take long time as the same has not even commenced due to ongoing Covid-19 pandemic and is not likely to conclude soon. Without expressing any opinion on the merits of the case, petition is allowed. The petitioner shall be released on regular bail on his furnishing bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/ Duty Magistrate, Hisar, as the case may be. The petitioner will not try to influence/ contact the witnesses of the case.

09.07.2020
Jiten

(ARUN MONGA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No