

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

CRM-M-16598-2020
Date of decision : 15.07.2020

Aman Arora

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ishan Gupta, Advocate,
for the petitioner.

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

Mr. Vikram Sheoran, Advocate,
for the complainant.

JITENDRA CHAUHAN, J. (Oral)

The matter has been taken up through video-conferencing in the light of the pandemic COVID-19 situation and as per instructions.

The instant petition has been preferred under Section 439 Cr.P.C. seeking bail in FIR No.198 dated 10.09.2019 registered under Sections 363, 366-A of Indian Penal Code (for short 'IPC') (Sections 376-D (2) (n), 328, 384, 109 IPC and Sections 6, 17 of POCSO Act added later on) at Police Station City Sangrur, District Sangrur.

Learned counsel for the petitioner submits that the present FIR No.198 dated 10.09.2019 (Annexure P-2) was registered against the petitioner under Sections 363 & 366-A IPC. Thereafter, the family of the complainant assaulted the petitioner and FIR No.199 dated 11.09.2019

(Annexure P-5) was registered under Sections 323, 341, 342 and 307 read with Section 34 IPC. Thereafter, on 24.09.2019 statement of the prosecutrix was recorded and offence under Sections 376-D (2) (n), 328, 384, 109 IPC and Sections 6 & 17 POCSO Act were added. After recording of statement of the prosecutrix under the influence of the family of the prosecutrix, Section 307 was deleted in FIR No.199 dated 11.09.2019 and challan was presented under Sections 325, 323, 341, 342 and 201 read with Section 34 IPC.

Learned counsel for the petitioner further refers to Annexure P-1 the transcript of the messages exchanged between them to contend that they were having a love affair. On the date of occurrence, parents of the girl caught her along with the petitioner and gave severe beatings which resulted in multiple injuries reflected in Annexures P-15 and P-16. He remained admitted in hospital from 09.09.2019 to 25.09.2019 with head injury and bilateral Nasal Bone fracture with closed fracture of distal end ulna, fracture 5th metacarpal, fracture of distal and radius epiphysis. He was put on ventilator, as noted in medical certificate dated 19.10.2019 (Annexure P-15) issued by Dayanand Medical College & Hospital, Ludhiana and FIR No.199 dated 11.09.2019 under Sections 323, 341, 342 and 307 read with Section 34 IPC was registered against the complainant party in the present FIR. However, the police being under the pressure of the complainant altered it to Sections 325, 323, 341, 342 and 201 read with Section 34 IPC. Learned counsel for the petitioner further submits that there is delay of 15 days in recording the statement of the prosecutrix under Section 164 Cr.P.C.

On the other hand, learned State counsel has opposed the

prayer of the petitioner on the ground that the offence alleged against the

petitioner falls under the category of heinous crime.

Heard.

Initially the present FIR No.198 was registered under Sections 363 & 366-A IPC and after 15 days when the condition of the petitioner became serious, the statement of the prosecutrix was recorded on 24.09.2019 under Section 164 Cr.P.C., whereas the alleged occurrence took place on 09.09.2019. No statement of the prosecutrix was recorded in between. Prima facie it appears that on the basis of the statement recorded after 15 days, Sections 376-D (2) (n), 328, 384, 109 IPC and Sections 6 & 17 POCSO Act were added in the present FIR No.198 dated 10.09.2019 to save the complainant party.

Despite specific order dated 14.07.2020 to verify the assertion of learned counsel for the complainant that the family of the petitioner has been threatening the complainant to enter into a compromise, learned State counsel submits that he has no instructions in this regard.

The petitioner is behind bars since 18.12.2019. The case is at the initial stage as even the charge is yet to be framed. Prima facie the record suggests that they were having an affair. No fruitful purpose will be served by keeping the petitioner in further incarceration. Keeping in view the peculiar facts and circumstances of the case, without adverting to the merits of the instant case, this petition is allowed. The petitioner be admitted to bail during the pendency of the trial, on furnishing bail bonds and surety bonds, to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

As far as the deletion of Section 307 IPC in the FIR registered

on behalf of the petitioner is concerned, learned State counsel has not been

able to substantiate as to how Section 307 IPC is not made out against the complainant party.

In this view of the matter, the petitioner is free to avail the legal remedies available to him, if so advised.

However, anything noticed hereinabove shall not be construed as an expression of opinion on the merits of the case.

15.07.2020
 jyoti-II

(JITENDRA CHAUHAN)
JUDGE

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