

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

206

CRM-M No.20520 of 2020

Date of Decision: September 17th, 2020

Avinash Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Nikhil Chopra, Advocate
for the petitioner.

Ms. Tanisha Peshawaria, Deputy Advocate General, Haryana.

(PROCEEDINGS THROUGH V.C.)

AUGUSTINE GEORGE MASIH, J. (ORAL)

Prayer in this petition is for grant of regular bail to the petitioner in FIR No.913 dated 17.08.2019 registered under Sections 376, 506, 328 IPC and Sections 66C, 67, 67A of IT Act, 2000 at Police Station Sadar, Gurugram.

It is the contention of learned counsel for the petitioner that incident on the basis of which the FIR has been registered is of the month of March, 2019 whereas the FIR was registered on 17.08.2019, which is after a period of almost five months. Apart from that, he contends that a perusal of the FIR as well as the statement given by the prosecutrix under Section 164 Cr.P.C. as also the statement before the trial Court, would indicate that it is a case of consensual relationship, which has turned out to be sour resulting in registration of FIR against the petitioner as a retaliation on the part of the prosecutrix. He further states that the prosecutrix has also been examined and the petitioner is in custody since 19.08.2019, which is more than one year, with the trial not likely to conclude in near future because of the prevailing circumstances as out of 15 prosecution witnesses, 8 witnesses are still left to be examined. Therefore, the prayer has been made for grant of bail to the petitioner.

Counsel for the State, on the other hand, on instructions from Inspector Sushila, Police Station Sadar, Gurugram, contends that there are serious allegations against the petitioner including making viral of the objectionable photographs of the prosecutrix. She asserts that the allegations are quite clear and specific and merely because there is some delay in the registration of the FIR, the same cannot be a ground for the petitioner to assert that it is a cooked up story on the part of the prosecutrix. She thus contends that the petitioner is not entitled to the concession of bail. However, the fact that there still 8 witnesses to be examined and the prosecutrix has already been examined and with the stage of the trial, could not be disputed.

I have considered the submissions made by the counsel for the parties and keeping in view the peculiar facts and circumstances of the present case, especially the allegations in the FIR, statement under Section 164 Cr.P.C. as also the evidence of the prosecutrix having been completed, with the trial not likely to conclude in near future, with 8 witnesses yet to be examined, especially in the prevailing circumstances, continuation of the petitioner in custody would not serve any useful purpose, the present petition is allowed.

Petitioner is directed to be released on bail to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, Gurugram.

Any observations made hereinabove are for the purpose of disposal of the present petition alone and shall have no bearing on the merit of the case during the trial in any manner.

September 17th, 2020

Puneet

(AUGUSTINE GEORGE MASIH)

JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No