

Sr. No. 205

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

**CRM-M-31350 of 2020 (O&M)
DATE OF DECISION : 09.10.2020**

Lakhwinder Singh @ Lakha

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. S.P.S. Sidhu, Advocate
For the petitioner.

Mr. Luvinder Sofat, AAG Punjab.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. Petitioner seeks regular bail in FIR No. 286 dated 05.12.2019, registered under Sections 376 and 506 IPC, at Police Station City Ferozepur, District Ferozepur.
2. Per FIR, the complainant along with her daughter and son were/are residing in Ferozepur. Her husband is stated to be abroad. She runs a boutique. The petitioner, who is friend of her husband, used to visit her off and on. He would repeatedly ask her to leave her husband and start staying with him. She spurned his offer and informed about it to her husband. Her husband also lodged a complaint with NRI Police Station. Basis thereof, preventive action under Section 107/ 151 Cr.P.C. was taken against the accused.

3. It is alleged that, on 02.12.2019, petitioner came to the house of prosecutrix, criminally intimidated her, and, committed rape upon her. Prosecutrix got unwell and she first took treatment/medicine from hospital and thereafter reported the matter to the police. FIR in question was registered. The petitioner was arrested on 28.03.2020 and he is in custody since then.

4. Learned counsel for the petitioner submits that the prosecutrix and petitioner were in a consensual relationship. While referring to photographs (Annexure P-2) learned counsel submits that the prosecutrix herself took photographs and later started black-mailing the petitioner. According to him, the petitioner himself is a victim of honey trap. He further submits that investigation is complete. Challan has been presented, but charges are yet to frame. His custodial interrogation is no more required. No useful purpose would be served by keeping them behind the bars especially in the pandemic scenario, where the Courts are working with restrictions and taking up only urgent matters.

7. On the other hand, learned State counsel, on instructions of ASI Sharapa Singh, admits that investigation is over and custodial interrogation of the petitioner is no more required. He admits that challan has been filed, but presently there is no headway because of pandemic.

8. *Prima facie* the contention of learned counsel for the petitioner seems to be worthy of being considered, however, the same can only be adjudicated at the trial of the case, which is currently held up. I am of the view that no useful purpose would be served by keeping the petitioner in prevention custody any more. Even the statement of prosecutrix has already been recorded before the Magistrate under Section 164 Cr.P.C. In the

premise, there is no likelihood of petitioner/ accused influencing the prosecutrix in not re-affirming her earlier allegations as contained in the FIR, since she has already reiterated the same before a Magistrate.

9. In the premise, without commenting on the merits of the case, the petition is allowed. Petitioner shall be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate, as the case may be. It is however, made clear that petitioner shall not visit the place where prosecutrix is residing and will not directly or indirectly try to contact the complainant or any other witness related to the case. In case of any violation by the petitioner, the prosecution shall be at liberty to seek cancellation of his bail.

October 09, 2020
Jiten

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No